

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

**Seventy-Fourth Session
April 12, 2007**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:55 p.m., on Thursday, April 12, 2007, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

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



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

John Griffin, Kummer Kaempfer Bonner Renshaw & Ferrario
Matt Griffin, Deputy for Elections, Office of the Secretary of State
Craig Walton, President, Nevada Center for Public Ethics

Chair Koivisto:

[Roll taken.] This is a work session and we probably will not take testimony unless there is information we need. This is the Committee's time to do its work and try to resolve any issues it has with these bills. I am going to turn the meeting over to our Committee Analyst who will take us through our work session.

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

Patrick Guinan, Committee Policy Analyst:

The first bill the Chair has requested we discuss today is Assembly Bill 384. It is not included in your work session document. There are no amendments proposed to it because it has to be passed in the same form as it was introduced. Assembly Bill 384 is an act enacting the agreement among the states to elect the President by national popular vote, and providing matters properly relating thereto.

Assemblyman Conklin:

If we do not take action on this bill one way or another, it will die with no opportunity for it to be reconsidered for some time. I would like to amend the bill with a fiscal note of \$250,000 that would enable the Secretary of State to conduct a voter information campaign before the next election cycle on what the national popular vote would mean to the people of Nevada. Then, we would rerefer the bill without recommendation to Ways and Means. That will keep the bill alive. Your vote in this Committee will not actually be cast in support of the bill. Your vote will be cast only to rerefer the bill to Ways and Means without recommendation.

Assemblyman Mortenson:

Why do we need a fiscal note? I think the people would eagerly vote for a popular vote to elect the President, because most do not understand the Electoral College.

Chair Koivisto:

This action is a vote to put an appropriation on the bill so we can keep it alive by sending it to Ways and Means. It does not have anything to do with whether people want to vote for it or not.

Assemblyman Mortenson:

I understand it makes the bill exempt, but can we then suspend that fiscal note so it does not die for lack of funds?

Chair Koivisto:

I believe the fiscal note will probably be removed, but in order to refer it to Ways and Means we have to put an appropriation on it.

Assemblyman Mortenson:

As long as it will not die because that fiscal note cannot be removed; can that fiscal note be removed?

Chair Koivisto:

Yes.

ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 384 AND REREFER IT WITHOUT
RECOMMENDATION TO THE ASSEMBLY COMMITTEE ON
WAYS AND MEANS.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

Is there any discussion?

Assemblyman Munford:

How many states are actually proposing this legislation or moving in this direction?

Chair Koivisto:

It has been passed in three states and is under consideration in a number of others. Your vote on the motion is not a vote to support the bill; it is a vote of

no recommendation and rereferral to Ways and Means. Otherwise, the bill will die.

Assemblyman Conklin:

That is correct. To clarify the record, this is a motion to Amend and Rerefer without Recommendation to Ways and Means. It simply keeps the bill alive until we have a chance to see what other states are doing. This idea is being pushed in the vast majority of states across the nation and I think it is important, but we may not be ready to make a decision on this today.

Chair Koivisto:

This idea currently has 305 sponsors in 47 states. Is there any further discussion? [No response.]

THE MOTION PASSED. (ASSEMBLYMAN SETTELMAYER
VOTED NO.)

Assembly Bill 570: Revises certain provisions relating to city government.
(BDR 24-429)

Patrick Guinan, Committee Policy Analyst:

The next bill we are going to discuss today is Assembly Bill 570. You will find this bill in your work session document. [Mr. Guinan read a summary of the bill and proposed amendments from prepared text ([Exhibit C](#)).]

Chair Koivisto:

The amendment takes care of an issue regarding the deadlines for canvassing in Reno, Carlin, and Wells. It also deletes language dealing with the Reno and Sparks City Attorneys.

I will take a motion to Amend and Do Pass the bill.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 570.

ASSEMBLYMAN MORTENSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assembly Bill 506: Eliminating the deadline for registering to vote in an election. (BDR 24-1338)

Patrick Guinan, Committee Policy Analyst:

The next bill we are going to discuss is Assembly Bill 506. [Mr. Guinan read a summary of the bill and proposed amendment from prepared text ([Exhibit D](#)).] I understand the Secretary of State and the clerks are comfortable with this proposed amendment.

Chair Koivisto:

Is there any discussion?

Assemblyman Segerblom:

I talked with Matt Griffin from the Secretary of State's Office who indicated that Secretary of State Ross Miller was happy with this amendment. I also talked with Alan Glover who represented the county clerks, and he said that the clerks were also in agreement. The amendment will require the clerks and the Secretary of State to analyze what it would take to implement our desire to increase voter turnout, and I would urge the Committee to support it.

Patrick Guinan:

Our Legal Counsel is of the opinion that the amendment language will not be difficult to draft once they know what the Committee wants the clerks and the Secretary of State to study.

I listed several issues for the Committee's consideration for possible inclusion in the study based on what the clerks testified their concerns were and the issues the Secretary of State's Office would need to look at that I discussed with the Deputy for Elections. We developed a conceptual framework and thought the Committee could work from it.

Assemblyman Segerblom:

These issues are fine with me.

Assemblyman Conklin:

Is this going to be like a resolution?

Chair Koivisto:

It will be more like a resolution. It is not something that will be a statutory requirement.

Patrick Guinan:

You can pass the bill requiring that the Secretary of State and the clerks study this, but because that requirement would end prior to the 2009 Session, it would function as a resolution. The requirement for an investigation would not appear in the *Nevada Revised Statutes*, but it would be passed as a bill rather than a resolution. It would function as a directive that would disappear when the two parties report back prior to the 2009 Session.

Chair Koivisto:

As well as dealing just with election day registration, we should ask to have the two parties look into moving final registration closer to election day and see what can be done to accomplish that—narrowing the time frame.

Patrick Guinan:

If the Committee chooses to go forward with this bill and requests an Amend and Do Pass, we can offer the Committee the option of reviewing the amended language as it comes from Legal Counsel before the bill gets sent to the Floor. The Committee can rework that language, if need be. Granted, there is a short time frame, but we can certainly have the Committee look at it again before it goes to the Floor, if that would make everyone more comfortable.

Assemblywoman Gansert:

Just for clarification, were we going to amend this to have the parties look at shortening the time frame or look at same-day voter registration?

Chair Koivisto:

Since we are going to ask the parties to do this investigation, and they are going to have until just prior to the 2009 Session to accomplish it, I would like to ask them to report back on both options.

Assemblyman Mortenson:

Do we have to amend this to say both options? Right now it reads, "feasibility of providing for Election Day voter registration."

Chair Koivisto:

No matter what we do, we have to amend the bill. If we want the parties to look at shortening the time frame as well, then we would add that to the language.

ASSEMBLYMAN MORTENSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 506 WITH THE ADDITION OF LOOKING AT THE
FEASIBILITY OF ELECTION DAY VOTER REGISTRATION AND

SHORTENING THE TIME PERIOD BETWEEN VOTER
REGISTRATION AND ELECTIONS.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

Chair Koivisto:

Is there any discussion?

Assemblywoman Gansert:

I support looking at reducing the time frame, but I have ongoing concerns about election day voter registration. Since this is an evaluation of whether it can be done and the logistics of that, I am okay with the bill.

Mr. Cobb just walked in and I am going to explain what we are doing. We are looking at A.B. 506. The bill has been gutted and we are looking to have the Secretary of State and the county clerks look into same-day voter registration, or reducing the time frame between registering to vote and voting—logistics, fiscal impacts, potential voter fraud, increased/decreased voter turnout, and a review of how other states are approaching the issue.

Assemblyman Cobb:

Is there an estimate on the cost?

Patrick Guinan:

No cost estimate has been provided yet. The clerks and the Secretary of State have regular meetings and they may be able to work this issue into those meetings without incurring much cost. I am sure the Secretary of State and the clerks will be happy to take a look at the costs and provide us with that information as soon as they can.

Assemblyman Segerblom:

That was what was indicated to me by the clerks and the Secretary of State. They meet monthly anyway, so this issue would be an item on one of their agendas.

Chair Koivisto:

We have a motion and a second. Is there any further discussion? [No response.]

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN, COBB,
AND SETTELMAYER VOTED NO.)

Assembly Bill 604: Revises provisions governing petitions for statewide initiatives and referenda. (BDR 24-1396)

Patrick Guinan, Committee Policy Analyst:

In addition to the work session document, we also have a mock-up of Assembly Bill 604 ([Exhibit E](#)) provided by John Griffin and based on concerns voiced during the hearing on this bill. [Mr. Guinan read a summary of the bill and various proposed amendments from his work session document ([Exhibit F](#)).]

Assemblyman Mortenson:

Language in this bill requires petition circulators to attest by affidavit to the validity of the signatures. I thought we just passed a constitutional amendment that would eliminate that requirement because it was declared illegal.

Patrick Guinan:

That is correct, but the constitutional amendment is not going to take effect right away, so it would not necessarily affect this bill.

Assemblyman Mortenson:

But we would be passing an illegal bill because the courts have already said that practice was illegal.

Kim Guinasso, Committee Counsel:

I am not sure which constitutional amendment Mr. Mortenson is referring to. There are a few cases concerning petition circulation that are applicable here. I do not believe the bill is requiring an individual circulator to disclose how much he is paid. The issue in the case out of Colorado was requiring signature gatherers to wear a badge indicating the status of their pay, but I do not believe this goes to that issue. I believe what it requires is reporting of whether they are compensated or not.

Chair Koivisto:

What Mr. Mortenson is questioning is petition circulators having to attest by affidavit to the validity of signatures.

Assemblyman Conklin:

The courts and the Legislature are two separate bodies. We write law, they interpret it, and sometimes we disagree. This provision says, "An affidavit executed by the circulator...." The constitutional amendment had an affidavit that was notarized and that is why it was struck down. It was the notary, not the affirmation of the person. This does not require a notary; it just says the

circulator is going to sign in good faith that he personally circulated the document, that the signatures were affixed in his presence, and that he believes the signatures to be genuine.

Kim Guinasso:

With respect to the notarization, I believe Mr. Conklin is correct and I believe that the section being amended out of the *Constitution* would have required an affidavit by one of the signers of the document that all of the signatures were genuine and that each individual who signed the document was, at the time of signing, a registered voter. That provision was of concern because a signer would not have any personal knowledge of that. With respect to A.B. 604, as was pointed out, the affidavit required in this bill goes directly to knowledge that the circulator should have.

Assemblyman Mortenson:

I understand the difference between the affidavits.

Assemblyman Settlemeyer:

For clarification, are we working off the amendment or the original bill?

Patrick Guinan:

We are talking about what is actually in the bill, and discussing amendments that were proposed during discussion on the bill and in writing. We have not gotten to the mock-up yet.

Assemblyman Settlemeyer:

I am still concerned about Section 5(d) in both the mock-up and in the original bill. I have a problem with the idea that an individual must disclose every organization he is a member of. If I wanted to give \$50 to a ballot initiative campaign, then I need to divulge any other organization affiliated with it or any organization that is engaged in any political activity—those, for me, would include the Farm Bureau, the Cattlemen's Association, the Organization of Agriculturalists, the National Association of Conservation Districts, the Nevada Association of Conservation Districts, and the Carson Valley Conservation District. That I must give all this information is not palatable to me.

Chair Koivisto:

What we are trying to get at in this bill is not that you belong to groups, but that you belong to groups that might also be working to either pass or defeat the ballot measure. The disclosure would show where funding is coming from for a particular ballot measure. If you are supporting a ballot measure to pen up all dogs, for instance, and you also belong to a group that is putting a lot of

money into that campaign, that is the kind of connection we are trying to identify with this part of the bill.

Assemblywoman Gansert:

Maybe we can modify the language that reads, "organized or engaged in political activity who are acting to support or oppose the passage of," so you only list organizations you are a member of if they are actively trying to support or oppose whatever that measure is.

Chair Koivisto:

That is a good idea.

Assemblyman Settlemeyer:

We could add that the entity or group must be giving money to that particular ballot issue. Just because one is part of an organization that has similar beliefs, one should not have to divulge that membership. The Farm Bureau firmly believes in property rights and so does the Cattlemen's Association. Just because both organizations believe in property rights, if they are not contributing money to any campaign, one should not have to divulge one's membership in them. It goes too far.

Chair Koivisto:

Let us go through the mock-up of the bill and then come back to what is not dealt with in the mock-up.

Patrick Guinan:

You have a mock-up of A.B. 604 ([Exhibit E](#)), and I will summarize the deletions and additions for you. The first amendment is on the fourth page of the bill and addresses concerns regarding the Secretary of State being able to gather "any other information he deems necessary." That requirement is deleted from Sections 3 and 5 of the bill.

The second amendment is on the following page of the bill and addresses the question Mr. Settlemeyer just raised. It amends Section 5.2(d) of the bill and inserts new language. Section 5.2(d) would now read, "if the person or group of persons is affiliated with any other groups or similar organizations organized for or engaged in any political activity including political contributions, the name, address, and telephone number of each such organization" The Committee may wish to work from that language, or not.

Amendment number 3 appears in several places in the bill but is essentially the same amendment. It first appears on page 6 of the bill in Section 7. It

reinstates a portion of the language that the bill initially struck out, so the language in the bill would now read, "who receives or expends money in excess of \$10,000 to support or oppose such initiation or circulation." This amendment is repeated in other, pertinent sections in the rest of the bill. My understanding is that this amendment would reinstate the \$10,000 contribution threshold, but would require that persons who receive contributions over \$100 have to report if they reach the \$10,000 threshold.

John Griffin, Kummer Kaempfer Bonner Renshaw & Ferrario:

That is correct.

Patrick Guinan:

Those are all the amendments in the mock-up.

Assemblyman Conklin:

I want to go back to Mr. Settelmeyer's concern about "each statement of organization" on page 5, Section 5, subsection 2 of the mock-up. Mr. Griffin, did you amend the bill this way to address Mr. Settelmeyer's concerns from the first meeting?

John Griffin:

Yes, I did. This language is not aimed at individuals. The section deals with the statement of organization by a ballot advocacy group, which is usually a political organization similar to a PAC (political action committee). This is not an individual who supports a particular ballot initiative; this is an organization, usually an acronym, and probably affiliated with another organization that supports a ballot initiative.

Assemblyman Conklin:

As in other business statutes, when we use the term "person" or "group of persons" that generally means a business or group of businesses. We are not actually talking about an individual, unless he is acting on his own behalf. If I wanted an initiative petition and I did it all myself, then I would be subject to the conditions of this bill. Is that correct?

John Griffin:

That is correct.

Assemblyman Conklin:

This language does not apply to persons necessarily giving money. That section is standard language just as when someone donates to our campaigns.

John Griffin:

That is correct.

Assemblywoman Gansert:

Mr. Griffin, how can we narrow this language even more to capture who you were just identifying, rather than capturing the Farm Bureau or an organization like that which is not organized for political activity, but is interested in politics?

John Griffin:

Perhaps it would be best done at Section 5, subsection 1, where it says, "each person or group of persons organized formally or informally." You could capture a person using the language "each person." Perhaps the language could be "each organization."

Chair Koivisto:

Instead of "formally or informally who advocates the passage" the language could read, "formally or informally for the advocacy," so it would capture a group formed specifically to advocate for the passage or defeat of a constitutional amendment. That narrows it quite a bit.

John Griffin:

You could say, "each organization or group of persons organized formally or informally for the advocacy."

Assemblyman Mortenson:

A group could formally organize and list a purpose that had nothing to do with the advocacy of a question, but then contribute to that question and get out of this requirement. The language should say, "formed for advocacy of a particular question or supporting the advocacy of a particular question." That may be too broad also.

Chair Koivisto:

That narrows it even more.

John Griffin:

"Supporting or opposing". You are trying to capture a group, not an individual, whether in the form of an LLC (limited liability company), a PAC, or a loose group of people.

Assemblyman Mortenson:

They could form for an innocuous purpose but then decide to contribute millions of dollars to a question and escape this provision in the bill.

Assemblyman Settlemeyer:

Earlier testimony on this bill indicated we were only trying to capture the PACs and organizations like that. Why do we not just say that? If the person belongs to another PAC, he must disclose that name, address, and telephone number. Otherwise, I move to delete Section 5, subsection 2(d) in its entirety.

Assemblyman Conklin:

That would defeat the whole purpose. We are trying to have disclosure for the public so that they will understand who is actually behind initiatives. It is about transparency in the process of initiatives and referenda.

Assemblyman Settlemeyer:

I do want transparency in government and addressing where the big money that may be behind some of these ballot initiatives may be coming from. That does not bother me, but my interpretation of this language is that it will scare away good people who want to be part of the political process. They will avoid involvement in the political process because they do not care to open up their entire lives and disclose any affiliations they may have.

Assemblyman Segerblom:

If the Farm Bureau wants to endorse or oppose an initiative, they do not have to report. But if they want to spend money on behalf of that initiative, in conjunction with one of these other groups, then that is something the Farm Bureau should have to disclose.

Assemblyman Settlemeyer:

We may have to agree to disagree.

John Griffin:

In Section 5, subsection 2(d), what if all that language is struck and language added such that one "must disclose an affiliate, or other organization, who would otherwise be required to register under this section," if they were to be doing it themselves. If the state Republican Party were contributing to a ballot initiative, they would have to register; likewise, an acronym affiliated with the state Republican Party would have to register. This would identify who was behind the acronym. Language reading, "who would otherwise be required to register" under that section might capture that information.

Chair Koivisto:

I like that language.

Assemblyman Conklin:

We are not talking about individuals; we are talking about organizations. If I am not an individual, but a group of people who have been organized and put together by another organization, I must disclose that organization because they are truly the ones that have organized this to make it what it is. Just using that innocuous acronym is not enough, is that what you are suggesting?

John Griffin:

That is correct.

Chair Koivisto:

Mr. Settelmeyer, if the language is changed to read, "or other organization that would be required to report if they were doing the activity," would that help your comfort level?

Assemblyman Settelmeyer:

That raises my comfort level considerably.

Chair Koivisto:

Okay. We are looking at Section 5, subsection 2(d).

Kim Guinasso:

Mr. Griffin, when you are saying, "who is otherwise required to register" under a section, which section are you talking about?

John Griffin:

I am talking about Section 5, subsection 1, which is the organization that must register. For instance, PISTOL (People's Initiative to Stop the Taking of Our Land) has to register and that registration includes, in subsection 2, the name, the purpose, the addresses, and then in (d), PISTOL would register any other organization that would otherwise be required to register under that section.

Assemblyman Segerblom:

That other group would be giving money, would they not, so they would also be reporting?

John Griffin:

There is an entire other section concerning monetary contributions. This section deals with registration of the advocacy group with the Secretary of State.

Assemblyman Segerblom:

You are speaking about advocacy, not money?

John Griffin:

Yes. I am speaking about an acronym having to register. For example, we are trying for passage of an initiative and doing so under a particular acronym—say "FARM." Behind FARM are the Farm Bureau and the Cattlemen's Association. So, we register as FARM, here is our name, our purpose, our contact information, and, in subsection 2(d), we are affiliated with the Cattlemen's Association and the Farm Bureau. If those two organizations were advocating for passage of the initiative by themselves they would have to register under this section.

Assemblyman Segerblom:

But only if they contributed money toward that, right? The Farm Bureau can endorse or oppose an initiative if they do not spend any money on it?

John Griffin:

No. There is no transparency. You form an acronym, but no one knows who the acronym is.

Assemblyman Segerblom:

But the way you know it is by who gave them money, which this requires.

Chair Koivisto:

This section of the bill describes the groups and organizations that have to register with the Secretary of State as BAGs (ballot advocacy groups), or whatever. This bill only concerns entities organizing with the intent of working as ballot advocacy groups for or against a ballot initiative.

Assemblyman Segerblom:

If you advocate for or against an initiative, under this law, would you have to report whether or not you spent money?

Chair Koivisto:

Yes, if you spend money; but you have to register with the Secretary of State before you can do anything, just like when you file for office.

John Griffin:

This bill requires a company that is advocating for or working against an initiative to register with the Secretary of State. The company has to list who is behind it, how it can be reached, and who it is. The second portion of the bill

requires the company to disclose where its money comes from. The disclosure does not come until the end, so almost all the signatures would be collected before anyone is going to know, for the most part, where that company collected its money from.

Chair Koivisto:

Are there any other questions about this? Does everyone understand the amendment we just talked about? [No response.] Patrick, I am going to turn it back to you.

Patrick Guinan:

The mock-up ([Exhibit E](#)) essentially makes three changes. The one we just discussed is the second change and attempts to clarify or tighten what kinds of affiliations need to be disclosed. The suggestion from Mr. Griffin would be to amend Section 5, subsection 2(d) to read something to the effect of, "If the person or group of persons is affiliated with any entity that would otherwise be required to register under the provisions of Section 5, subsection 1, the name, address, and telephone number of that organization would be supplied."

The other two amendments in the bill remove the ability of the Secretary of State to gather "any other information he deems necessary" and reinstates the \$10,000 reporting threshold.

Chair Koivisto:

Are there any other questions or concerns?

Assemblywoman Gansert:

Have we deleted Section 6, the circulator compensation reporting?

Patrick Guinan:

We have not discussed any of the amendments suggested by Janine Hansen [President, Nevada Eagle Forum]. They are not included in the mock-up.

Chair Koivisto:

Mr. Settelmeyer, are you okay with what we have done so far?

Assemblyman Settelmeyer:

I am still concerned, but that is just the way it is.

Assemblyman Conklin:

Mr. Griffin, is this mock-up supposed to replace the bill? [John Griffin nodded his head, "yes."]

Patrick Guinan:

The mock-up the Committee has, that Mr. Griffin submitted, is the bill except for the three amendments we have just discussed. Those three amendments are as follows:

- To delete the language allowing the Secretary of State to gather whatever information he deems necessary;
- To tighten and clarify Section 5.2(d) talking about affiliations; and,
- To reinstate the \$10,000 reporting requirement.

Otherwise, this mock-up is exactly the same as the bill. There are other suggested amendments that are included in your work session document, but they are not a part of this mock-up. You can work from the mock-up if you are comfortable with what it contains and then add or delete as you choose, or you can work from the work session document and ignore the mock-up; those are the two options.

Assemblyman Segerblom:

I raised another issue, which was to limit how much could be contributed toward one of these advocacy groups.

Assemblyman Conklin:

Could we get John Griffin and Matt Griffin to the witness table?

Chair Koivisto:

Mr. Conklin, I assume you have some questions?

Assemblyman Conklin:

I do. Ms. Hansen's points do raise some concerns. One of Ms. Hansen's items was to delete Section 19 from the bill. That is the section requiring the Secretary of State to verify the accuracy of the petition and there was some concern from the Committee about whether the Secretary of State wanted this.

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

It would be uncharacteristic of the Office of the Secretary of State to verify the authenticity of something submitted to us. We are not an investigative division; we work on campaign expenses, BAGs, and PACs. We work on a complaint basis, meaning that once we are made aware of something, a letter-writing process is initiated and that is how we make a determination. It is difficult for us to respond and verify authenticity.

Assemblyman Conklin:

I recommend Section 19 be deleted. If the issue needs to be addressed, we can address it as the bill goes along. This is not the right place for that particular provision.

Assemblywoman Gansert:

In looking at Section 18 where the circulator has to disclose whether he is a volunteer or not, it does not say how that information must be disclosed. Do they say something to the individuals they approach, or do they wear a pin? How is that implemented? That was another one of Ms. Hansen's concerns.

Chair Koivisto:

We need to ask Kim about that. You said something about Colorado, where people collecting signatures had issues with wearing ID (identification) pins?

Kim Guinasso:

Section 6 requires information be reported, but does not go to specific, individual persons employed to gather signatures. It requires a general report concerning the number of persons to whom compensation is paid, a range of what they are paid, and the total amount paid to all signature gatherers, but not with respect to a specific signature gatherer.

We carefully considered the provisions of this bill in light of the *Buckley* [*Buckley v. American Constitutional Law*, 525 U.S. 182 (1999)] case and other cases that go toward signature gathering and requirements of signature gatherers. The case specifically required that the names and addresses of people who were gathering signatures be reported, as well as whether they were from out of state or in state.

Assemblywoman Gansert:

I believe there is some crossover between A.B. 604 and A.B. 606. Language in A.B. 606 said you had to name every signature gatherer; that they had to file individually. In looking at the language in A.B. 604, the number of signature gatherers and their compensation is required to be reported, so I am okay with that part of this bill. The only other concern in A.B. 604 was Section 18 having to do with the disclosure and that is what Ms. Guinasso is going to clarify.

Patrick Guinan:

Section 18 reads that each person circulating a petition for initiative or referendum who is not receiving, or will not receive, any compensation for circulating the petition, shall disclose to signers of the petition his status as a volunteer. It also reads that each person who is receiving, or will receive, any

compensation for circulating a petition shall disclose to signers of the petition his status as a paid circulator. There is no provision made for how that will be done, whether it will be orally, or whether the circulator will wear some form of identification.

Chair Koivisto:

When one is campaigning door to door, or you have volunteers walking door to door, they identify themselves as either being volunteers, or if people have been paid to go door to door, they identify themselves as working for that campaign.

Assemblyman Conklin:

I am okay with the changes to Section 5 and the deletion of Section 19.

Chair Koivisto:

Is the deletion of Section 19 at the request of the Secretary of State's Office because they do not verify the accuracy of the description of the petition?

Matt Griffin:

For informational purposes, verifying accuracy is not something we typically do. It would be outside the normal course of our business practices. With respect to Section 18, the Secretary of State has general regulating powers to enforce the provisions of Chapter 294A of the *Nevada Revised Statutes*. To address Mr. Guinan's concern that Section 18 does not provide guidance as to how that information would be collected, our Office is essentially charged with the duty of creating regulations and making certain they are enforced.

Kim Guinasso:

The distinction with this bill, as opposed to the case that arose out of Colorado, was with respect to name badges. In Colorado, the person circulating the petition had to disclose his identity. We believe the general reporting requirements set forth in Section 6 do not go toward identifying individual circulators. The disclosure of whether compensation is being received is also not addressed in the Colorado Supreme Court case. With respect to this jurisdiction and that requirement, there is no case law that would provide that such a requirement is unconstitutional at this time.

Chair Koivisto:

Thank you. Are you ready for a motion?

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 604 WITH THE MOCK-UP PROVIDED TODAY,
AMENDING SECTION 5.2(d), AND DELETING SECTION 19.

ASSEMBLYMAN MUNFORD SECONDED THE MOTION.

Chair Koivisto:

Is there any discussion? [No response.]

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND COBB VOTED NO. ASSEMBLYMEN MORTENSON AND SETTELMAYER RESERVED THE RIGHT TO CHANGE THEIR VOTES ON THE FLOOR.)

This bill would make the people who want to make or change laws by initiative petition report the same way candidates must report.

Assembly Bill 606: Revises provisions relating to petitions for statewide initiatives and referenda. (BDR 24-1395)

Patrick Guinan, Committee Policy Analyst:

[Read the bill summary and proposed amendments from his work session document ([Exhibit G](#)).] We also have a mock-up of the bill supplied by John Griffin ([Exhibit H](#)).

Chair Koivisto:

Let us go through the mock-up because the bill and amendments are contained within the mock-up.

Patrick Guinan:

You have the mock-up of the bill in front of you. The first amendment is the same clarification we discussed regarding affiliations and is at the bottom of the first page. I would suggest that the Committee simply mirror the language it agreed to in Assembly Bill 604 regarding affiliations for that amendment. The first amendment also deletes the ability for the Secretary of State to gather extra information at his discretion. That deletion meets with the other concern voiced in discussion earlier.

Amendment 2 begins at the bottom of Section 3 and reads that a person who gathers signatures on a petition must be a resident of this State. New language added reads, "and must have been registered with the Secretary of State under Section 2(d) of this act, prior to circulating or gathering any signatures on a petition."

The third amendment, in the following section, refers back to the addition I just read. The fourth amendment of the mock-up adds a new subsection 2 to Section 5 and addresses intentional fraud. It reads:

In the event a violation of this act results from fraudulent or intentional misconduct of any person or group whose registration is required with the Secretary of State, the district court shall disqualify all signatures which are gathered by the circulator, individual or company committing the fraudulent or intentional misconduct, unless the proponent of the petition can prove by clear and convincing evidence that each individual disqualified signature is otherwise valid.

The Committee may remember that this was a point made in discussion by Judge Mike Griffin in answering questions from Mr. Conklin regarding the proper way of addressing fraudulent signatures.

The fifth amendment is a technical change that requires that initiatives and referenda be filed with the county clerk rather than with the Secretary of State. That is a drafting issue that has been fixed.

The sixth amendment entirely deletes language in the bill that creates the Ballot Review Board and lays out its duties.

That is the bulk of the amendments submitted by Mr. John Griffin for A.B. 606.

Chair Koivisto:

Are there questions or comments from the Committee?

Assemblyman Segerblom:

Why did we eliminate the Ballot Review Board?

Chair Koivisto:

I am not sure.

John Griffin, Kummer Kaempfer Bonner Renshaw & Ferrario:

I removed the Ballot Review Board because of discussions with some of the proponents of the measure. Numerous states have ballot review boards that are good, streamline the process, and remove the courts from many decisions, which can speed up the process. We, however, came to believe that we were "trying to bite off more than we could chew." I think creation of a ballot review board should be a policy choice for this Committee to make.

Chair Koivisto:

A number of western states have ballot review boards and it is a good way to streamline the ballot initiative process. It would take lawyers and courts out of the process, as much as it could. If the Committee would like to consider the Ballot Review Board we would have to go back to A.B. 604 and look at replacing the Legislative Counsel Bureau in that bill with the Ballot Review Board.

Assemblyman Conklin:

Conceptually, a ballot review board is important because it takes disputes out of the court, which can be cumbersome, and puts them back into a more public forum. However, the Ballot Review Board as it is in A.B. 606 is problematic and also adds a fiscal note, which may have played a role in the Board being pulled from this bill. So, to keep this bill moving forward, we will leave the Ballot Review Board off, as much as I like it.

The language in Section 4, on page 2, says, "Each person who gathers ... must be a resident of this State" Is there any case law in this area against such a restriction?

Chair Koivisto:

If people are going to walk door-to-door, or stand and get signatures to change the laws in our State, they ought to live here.

Assemblyman Conklin:

I agree and I like the provision; however, if petition circulators are being paid, they are part of interstate commerce. I do not know if you can legally restrict interstate commerce without violating the Commerce Clause of the *United States Constitution*. If that is the case, I would recommend accepting Mr. Danny Thompson's recommendation that requires contractors who come to this State, and their employers, to register with the Secretary of State so we know who they are.

Kim Guinasso, Committee Counsel:

Mr. Conklin asked what the state of case law was with regard to the residency requirement on circulators of petitions. The law at issue in *Buckley* [*Buckley v. American Constitutional Law*, 525 U.S. 182 (1999)] did have a provision requiring petition circulators to be Colorado residents. However, the Tenth Circuit Court did not address that part of the law and therefore, neither did the U.S. Supreme Court. So, we do not have a Supreme Court case directly on point, nor do we have a Ninth Circuit Court case, which is the Circuit to which Nevada belongs. However, we have a split of authority in the Eighth Circuit and

in the Tenth Circuit. The Eighth Circuit has upheld a residency requirement; the Tenth Circuit has prohibited it. That means there is a split among the Circuit Courts, but nothing that would be binding upon our jurisdiction at this time.

With respect to the Commerce Clause issue, I do not know that either Court necessarily directly addressed that particular issue.

Assemblyman Conklin:

If there is no case law prohibiting this provision, I would keep it in.

John Griffin:

Knowing the status of case law, admittedly there is a split and one reason this could be justified and supported, and part of the reason for the testimony at the hearing, was to show a pattern of fraud and a risk that is posed to the State by out-of-state circulators. There was evidence presented to this Committee that could serve as a basis for requiring petition circulators to be state residents. Most of the violators, and most of the fraudulent conduct, was attributed to out-of-state people who could not be tracked down after they left the State.

Chair Koivisto:

Are there any other questions or concerns about this bill?

Assemblyman Conklin:

Mr. Griffin, will you clarify language in the same section that reads, "and must have been registered with the Secretary of State ..."? Is it the person who registers the organization that hires the employee?

John Griffin:

That is correct.

Assemblyman Conklin:

It is the company, not the individual?

John Griffin:

The company registers the names of those being hired as circulators, and updates that list with the Secretary of State.

Assemblywoman Gansert:

I am not sure I am okay with that provision—naming everyone who circulates petitions versus only naming the entity doing the circulation. When I read "person," I thought it was the entity or the advocacy group, versus John Doe or Jane Doe.

Chair Koivisto:

I tend to agree with that. If you are paying people to collect signatures, you are probably not paying them very much so they are not going to be long-term employees. The company or contractor employing those circulators would be doing a lot of updating of those lists. I think the company or contractor has to register with the Secretary of State.

John Griffin:

The problem is that the circulators can sign a fictitious name and give a fake address. If you are challenging a petition, or you are looking into fraud, all you see is that the circulator is "John Doe" from Bend, Oregon, collecting signatures and listing a shopping center as his address. A registration requirement forcing the company to give a name, address, or phone number, could be used to cross-check. You could find them and bring them into court to testify about whether there was fraud. Without their names, you cannot know who the people are. If they are from out of state, you are never going to get a court to chase them or haul them in. There is not enough time or resources.

Assemblywoman Gansert:

I understand that concern. If they are fraudulent names, how would it be proven? Part of the bill says that, if fraud is proven, those signatures are kicked out, right? If we are changing Section 2, subsection 2(d), to match A.B. 604 we talked about those being entities, not individual people, so now there is a conflict between the two bills.

John Griffin:

Except in this situation, subsection 2(c) is the registration of the officers, employees, and volunteers of the group, which would include the circulators.

Assemblywoman Gansert:

Then, when we go back to Section 4, it references Section 2, subsection 2(d). Should it be referencing subsection 2(c) instead?

John Griffin:

You are correct.

ASSEMBLYWOMAN GANSERT MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 606 WITH THE MOCK-UP; TO CHANGE THE
LANGUAGE IN SECTION 2 TO MIRROR THE LANGUAGE IN
A.B. 604; AND IN SECTION 4, TO CHANGE THE REFERENCE TO
"SECTION 2(d)" TO READ "SECTION 2(c)."

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Chair Koivisto:

Is there any discussion? [No response.]

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN, COBB, AND SETTELMAYER VOTED NO. ASSEMBLYMAN MORTENSON RESERVED THE RIGHT TO CHANGE HIS VOTE ON THE FLOOR.)

Assembly Bill 335: Makes various changes related to elective offices. (BDR 24-1195)

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read a summary of the bill and suggested amendments from his work session document ([Exhibit I](#)).]

Chair Koivisto:

Some of these amendments would certainly discourage people from running for an office that pays \$7,800 every other year.

Assemblyman Conklin:

It has been recommended to me by Legal Counsel that anything shorter than 12 months to raise campaign funds would potentially raise a legal question. There was also a concern raised by Mr. Settelmeyer about incumbents not having an opportunity to raise money when possible opponents could. I checked into that and was informed that the fund-raising ability of a candidate currently serving in public office can be restricted, but not that of someone who is not in public office. Unlike a current officeholder, who cannot take money at the same time he or she would have the ability to affect legislation, when someone is only a candidate but not an officeholder, there is no legitimate reason to restrict that person's fund-raising activity.

Assemblywoman Gansert:

I thought judges were also restricted on when they could start raising money.

Assemblyman Settelmeyer:

Nevada Supreme Court Justice Mark Gibbons indicated that the judges are going to change that within their own judicial canons because they believe they can regulate the policy of a candidate running for judge in that manner. I understand Mr. Conklin's confirmation that we, however, cannot restrict people campaigning against us, the current officeholders.

Assemblyman Munford:

Does this mean all elected officials including local candidates? When former Assemblywoman Chris Giunchigliani introduced similar legislation last session, I thought she was aiming at local elected officials. They were able to collect campaign funds year-round, and she had a problem with that because local officials' decisions might have been influenced by contributions from people appearing before their boards.

Chair Koivisto:

That is what we are dealing with in this bill.

Assemblyman Conklin:

I would like to ask a question of our Legal Counsel. In Section 1, it was my intent to make certain that this portion of Chapter 294A of the NRS (*Nevada Revised Statutes*) does not touch Legislators, the Lieutenant Governor, or the Governor, and that they be governed by the current statute covering the Legislature. That statute says campaign money cannot be raised any time a Legislator has the ability to cast a vote, or 30 days before and 30 days after having the ability to affect policy. Is that what this section does?

Kim Guinasso, Committee Counsel:

Are you asking me if the section provides that the members of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor-Elect, and the Governor, who are subject to the provisions of NRS Chapter 294A.300, are subject to the provisions of Section 1 or exempt from the provisions of Section 1?

Assemblyman Conklin:

I want it made clear that they are exempt from Section 1 because they are governed by another statute.

Kim Guinasso:

I think the way this is drafted says the opposite of that. We would need to rewrite it to make it clear that the provisions of NRS Chapter 294A.300 apply to members of the Legislature, the Lieutenant Governor, et cetera, and that the provisions of Section 1 apply to everyone else.

Assemblyman Conklin:

That was my intent.

Kim Guinasso:

The proper way to draft this would be to amend Section 1, subsection 1 to say, "Except as otherwise provided in NRS Chapter 294A.300, it is unlawful for an elected public officer ..." and it would go on from there. We would also provide another subsection that would say, "the provisions of this section do not apply to elected public officers or public officers who must comply with *Nevada Revised Statutes* 294A.300."

Assemblyman Conklin:

I do not see how this bill moves forward without that change. I have no problem with the second amendment proposed by Ms. Giunchigliani. Whatever the Committee's pleasure is on that issue, I would certainly support.

The proposed amendment on the next page, starting with "Additionally" and which would add Mr. Hardy's addition to "the fifth degree of consanguinity," I believe to be a good amendment. I also believe Dr. Craig Walton's amendment, to strike the word "improperly" under the definition of "gift," has merit. He has tried repeatedly to remove that word from statute, and I think we should listen to him. It is just a change in nuance, but it clarifies that there is no way to do such activity "properly."

Concerning a charitable organization, I do not know if the gift statute can be fixed. Other than the amendment Dr. Walton put forward, I like the way I have amended it, except it almost needs to say, "Any 501(c) [Internal Revenue Service Code 26 U.S.C.] organization" or "any event one is attending under the auspices of that person's position as an elected official." If you go to a Chamber of Commerce breakfast to give a speech about what happened during the legislative session, or if you go down to the local union hall to talk about wage law, you should not be penalized by having that count as a "gift." That is activity related to your office and if you had not attended, the public would not have had that access to you. I do not want to strike the gift portion, other than to make the change Dr. Walton suggested; however, it is very hard to make certain we capture all the appropriate activity, but not extend it to inappropriate activity, so I do not know what to do with that particular section. The 501(c) code covers many, many charitable organizations, unions, and business associations.

Assemblywoman Gansert:

Dr. Hardy had language concerning gifts in another bill he proposed that I would like to read to you:

... a list of each event related to the public office that he attended for which \$100 or more of the cost and expenses associated with his attendance, and if applicable, the attendance of his spouse or guest at the event, including, without limitation, food, lodging and travel, were paid for by another person or governmental entity, or were waived by the sponsor of the event, this must include, without limitation, the total value of the cost and expenses that were paid or waived, and the identity of the person or governmental entity who paid or waived the cost and expenses.

Dr. Hardy is trying to disclose free trips or events valued at over \$100. That was an amendment he proposed that was in his bill.

Chair Koivisto:

That has a \$100 reporting requirement?

Assemblywoman Gansert:

Yes, you would report if you accepted something valued at \$100 or more and who provided it.

Patrick Guinan:

That definition of "gift" is in Section 1 of A.B. 312 and is in your bill books.

Assemblyman Conklin:

We could accept the preliminary language in A.B. 335, and starting on page 4, we could accept the deletion on line 35 and the new language at lines 36 and 37, but delete the new language on lines 41 through 45. We could accept the new language in Dr. Hardy's bill, which deals with costs and expenses associated with the attendance of a candidate for public office or public officer, or the spouse or guest of such person, at an event related to public office or at an event that benefits an organization that qualifies as a tax exempt organization under 501(c) of the Internal Revenue Code.

Chair Koivisto:

Would you amend the definition of "gift" into A.B. 335 in Section 4, subsection 2?

Assemblyman Conklin:

Yes, and in return, we would delete the new language on lines 41 through 45.

Chair Koivisto:

Right.

Assemblyman Conklin:

We want to remove the cost of entertainment from "gift."

Chair Koivisto:

Okay.

Assemblyman Conklin:

What we would have is a definition of "gift" that does not include entertainment. It would be a gift if it met the threshold. In addition, what would not be a gift is defined in Section 1, subsection 4, of Dr. Hardy's bill.

Patrick Guinan:

If you look at Section 12 on page 5 of A.B. 335, the definition of "gift" is rendered there. At the end of that section, in subsection 2 on page 6, is language relating to exempt organizations pursuant to Internal Revenue Service Code 26 U.S.C. 501(c). For consistency, we need to decide if it is going to be 501(c)(3) or 501(c) and Mr. Conklin has stated he does not mind having it simply be 501(c).

Chair Koivisto:

If we leave it 501(c), it is a little broader and captures a greater array of entities. Are there other questions or comments from the Committee?

Assemblyman Settlemeyer:

This prohibition against campaign fund-raising only applies during the year leading up to an election, correct? Will that be carefully spelled out to the local municipalities?

Assemblyman Conklin:

The time frame during which they can raise money would be 12 calendar months prior to the election. We might want to spell out the actual number of days, so it might be safer to say, "365 days prior to but not including" election day.

Assemblyman Ohrenschall:

At the beginning of the bill in Section 1, paragraphs 1 and 2, we will be exempting members of the Legislature from the 12-month prohibition on fund-raising before the legislative session and the 3-month after-session prohibition, but we will not be exempting the Governor, Lieutenant Governor, Governor-Elect, and Lieutenant Governor-Elect. Is that correct?

Chair Koivisto:

No, that is not correct. *Nevada Revised Statutes* 294A.300 deals with the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor, and the Governor-Elect. That is not going to change. The amendment we need to make is at Section 1 and would say, "except as otherwise provided" so that it does not affect fund-raising timetables for Legislators, because we are on a different calendar than locally elected officials.

Assemblyman Ohrenschall:

So the blackout period for members of the Legislature, the Governor, and Lieutenant Governor would be 30 days before the beginning of session and 30 days after, the way it currently is?

Chair Koivisto:

Correct.

Assemblyman Conklin:

Starting on the second page of the work session document ([Exhibit I](#)), an amendment was suggested to require the Secretary of State to make any forms he provides available in electronic format. Could Mr. Griffin come to the witness table and tell us if this is a possibility? I like the idea, but my concern is whether this requirement would add a fiscal note.

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

It is my understanding that the proposed amendment would only require that we make the forms available on our website, not that we make the forms that have been filed available on our website.

Assemblyman Conklin:

The proposed amendment reads, "Amend pertinent sections to require the Secretary of State to make any forms he provides available in electronic format and to require that those forms also be available in electronic format once they have been filed."

Matt Griffin:

I do not see that requirement attaching any fiscal note. From my experience with how our website is being redesigned and what we will be putting onto it, I do not believe it will be unduly burdensome.

Assemblyman Conklin:

I would be willing to accept that statement. As a side note, I would ask that your Office put the forms in a format so we could actually type the information into them, such as in Word or Excel.

Chair Koivisto:

As another side note, I went through and set up the forms in Excel.

Assemblyman Conklin:

Item 2, page 2 of the work session document contains a requirement that local governments enact regulations governing lobbyists and appointed people, at least to the extent that they have the ability to make policy. If someone is appointed to a board that has regulatory authority, we would want them covered.

Assemblyman Settlemeyer:

I understand your concept, but could we simply address that as "elected individuals or individuals appointed to what would normally be an elected position"? I remember seeing that language elsewhere in statute. You are extending this out too far.

Chair Koivisto:

It needs to be specific to people who are appointed to a position where they are able to affect public policy.

Assemblyman Settlemeyer:

Many times, counties appoint representatives to their local conservation districts. Do you want this to apply to all those individuals?

Chair Koivisto:

No, because they do not make public policy, they enforce public policy. Planning boards may need to be included.

Assemblyman Settlemeyer:

I am concerned because we have significant problems trying to find people to sit on boards in Douglas County.

Assemblyman Conklin:

This is enabling language and each municipality will make its own rules. We are just giving the authority to proceed and requiring there be some policy in place to capture this for the public.

Chair Koivisto:

If the public sees the chairman of the planning commission driving around in a new BMW, and someone just got some plum development through the planning commission, people want to know about situations like that.

Assemblywoman Gansert:

For clarification, when we are talking about gifts and disclosure, individuals who are running for office and who file for office meet these same standards. This is not just about people who are elected; it includes people running for those positions having to meet the same disclosure standards.

Chair Koivisto:

Dr. Walton, we are not taking public testimony.

Craig Walton, President, Nevada Center for Public Ethics:

I understand that, but I want to say that the discussion here is not about persons who are being lobbied, but about the lobbyists themselves. Those are the ones who would be regulated.

Patrick Guinan:

Dr. Walton's suggestion concerns local governing bodies being required to enact regulations governing the activities of lobbyists who lobby both elected and appointed officials. A lot of the same points that Mr. Settelmeyer raised still apply and concern not making people disclose if they are talking to a general improvement district person or something. That is correct. This would apply to lobbying reports and registration and not to the officials themselves.

Chair Koivisto:

Are there any other questions, concerns, or amendments?

Assemblyman Conklin:

There are many proposed amendments and I would not discount the merits of any of them, but if we accept all the amendments ...

Chair Koivisto:

We do not want to create a "Christmas tree." If we keep adding amendments, what we have will be unrecognizable to us. Patrick, will you please clarify what we have done with the bill so far?

Patrick Guinan:

These are the proposed amendments so far, including the issue Mr. Conklin raised with Ms. Guinasso:

- Revise Section 1 to clarify that the persons listed in Section 1, subsection 2, are not captured, too. In other words, the Governor, Governor-Elect, Lieutenant Governor, and Lieutenant Governor-Elect are not subject to the provisions of Section 1.
- Amendment No. 1 suggested by Ms. Giunchigliani has been rejected by the Committee, although Mr. Conklin raised the possibility of changing the 12 months to 365 days and that is still up for discussion, but the date of January 1 is not an option.
- Mr. Conklin was satisfied with Ms. Giunchigliani's second suggested amendment and no one on the Committee disagreed with it.
- Concerning the definition of "gift," Mr. Conklin has suggested the language in Section 4, page 4, at lines 36, 37, and 41 to 45 be stricken and replaced with language in Assemblyman Hardy's bill which reads, "costs and expenses associated with the attendance that a candidate for public office or public officer or the spouse or guest of such a person at an event related to public office or at an event that benefits an organization that qualified as a tax exempt organization pursuant to 26 U.S. Code Section 501(c)."
- Looking at page 2 of the work session document ([Exhibit I](#)), the Committee has agreed to change the consanguinity threshold to the fifth degree rather than the third degree as is currently in statute.
- The next amendment was suggested by Craig Walton and would remove the word "improperly" from NRS 281.481, subsection 1, and the Committee has agreed to that.
- The next amendment suggested by Craig Walton is to amend pertinent sections of the bill to require the Secretary of State to make any forms he provides available in electronic format and to require that those forms also be available in electronic format once they have been filed. The Secretary of State has said he has no problem with that so the Committee has agreed to that.
- The second amendment suggested by Craig Walton was to add the word "appointed" to Sections 5 and 7 of the bill so that local governing bodies would be required to enact regulations governing the activities of lobbyists who lobby both elected and appointed officials.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 335 WITH THE AMENDMENTS REVIEWED BY
PATRICK GUINAN, COMMITTEE POLICY ANALYST.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

Chair Koivisto:

Is there any further discussion? [No response.]

THE MOTION PASSED UNANIMOUSLY.

The Committee will take a five-minute break [at 6:25 p.m.].

Let us come back to order [at 6:43 p.m.]. We have to reopen Assembly Bill 606 because of a minor change we must make and we have Janine Hansen [President, Nevada Eagle Forum] to thank for bringing it to our attention. I will have Kim Guinasso explain what we must do with Section 2, subsection 2(c).

Assembly Bill 606: Revises provisions relating to petitions for statewide initiatives and referenda. (BDR 24-1395)

Kim Guinasso, Committee Counsel:

In Section 2 of A.B. 606 there is a requirement that is not in A.B. 604. The requirement concerns a registration form filed with the Secretary of State by any person or group circulating a ballot question petition. Paragraph (c), lines 13 and 14 on page 2, requires names, addresses, and telephone numbers not only of the officers of the group, but of any employees and volunteers. This is specifically problematic with respect to the *Buckley* [*Buckley v. American Constitutional Law*, 525 U.S. 182 (1999)] case where employees of the initiative drive were required to wear name badges that indicated their names, as well as the fact that they were paid to circulate the petition. It set up an inequity between them and the volunteers of the organization. Further, issue advocacy has always enjoyed a higher level of protection under the body of case law with respect to the First Amendment. The fact that the names of the employees and volunteers of the group would need to be disclosed pursuant to paragraph (c) of subsection 2 of Section 2 is, in the opinion of our office, constitutionally problematic. I recommend the deletion of the words "employees and volunteers" on line 14 of Section 2 on page 2 of A.B. 606.

ASSEMBLYMAN CONKLIN MOVED TO FURTHER AMEND
ASSEMBLY BILL 606 WITH THE DELETION OF "EMPLOYEES AND
VOLUNTEERS" ON LINE 14 OF SECTION 2 ON PAGE 2.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

Chair Koivisto:

Is there any further discussion? [No response.]

THE MOTION PASSED UNANIMOUSLY.

We will once again close A.B. 606 and open the hearing on Assembly Bill 142.

**Assembly Bill 142: Makes various changes concerning ethics in government.
(BDR 23-169)**

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read the bill explanation and proposed amendments from his work session document ([Exhibit J](#)).]

Assemblyman Conklin:

The mock-up ([Exhibit K](#)) reflects all the changes provided by Matt Griffin from the Secretary of State's Office that the working group was amenable to.

Chair Koivisto:

The only amendment not included in the mock-up is the increase in monetary penalties the Ethics Commission can levy on people who violate ethics laws.

Patrick Guinan:

The Chair is asking whether or not the Committee wants to take up recommendation E, listed as a proposed amendment on page 3 of the work session document. That recommendation would raise each of the penalties the Ethics Commission can assess by \$5,000 for a first, second, or third violation.

The mock-up does not contain the increased penalties because that was not a subject of discussion that the working group addressed. This suggestion was made after the working group met and would be in addition to the mock-up if the Committee chooses to accept the mock-up as the working group agreed to it. The increased penalties would be added to the bill.

Assemblyman Conklin:

The mock-up is in good shape. The ACLU (American Civil Liberties Union) voiced a concern that monthly reporting on all measures lobbied would have significant problems because some people lobby on thousands of bills. Keeping track of that many bills could be problematic. If it is a free speech issue, we should just remove that language mentioned as a concern in part of item A) on page 1 of the work session document.

I am agreeable to Item B), where Dr. Craig Walton is suggesting we clarify that "seeking" gifts is unacceptable.

Item C) is already in the mock-up.

Item E), at the request of the Chairwoman, certainly should be stated in this bill. That is an excellent provision.

Chair Koivisto:

Item A) of the amendments is in the mock-up on page 2, Section 5, subsection 3, and you want to take that out?

Assemblyman Conklin:

At the request of the American Civil Liberties Union, that is a fair deletion.

Chair Koivisto:

Right, and some other people had issues with that language, too, so let us take that out.

Assemblyman Conklin:

Item E) would increase the cap on penalties for ethics violations. In addition to that, Mrs. Gansert reminded me that in an effort to reduce the fiscal note, instead of requiring that ethics training be taught by the Ethics Commission, we could create language that would say the Ethics Commission would administer the training. The Commission could use their website for the training, or they could do mail-in training. It could be a self-study course where the person would receive a book and documents and then return an affidavit indicating the training had been completed. At least there is a requirement that people have an opportunity to learn about ethics at the outset of their political career.

Chair Koivisto:

I believe Lynn Chapman [Vice President, Nevada Eagle Forum] suggested the training utilize CDs (compact discs).

Assemblyman Conklin:

Right now, the fiscal note is approximately \$131,000 over two years. If all the Ethics Commission has to do is produce a CD and require people to take a test online or at their home and return a signed document indicating they had read or studied the material, much of that fiscal note will disappear. This is a start in the right direction and alleviates many potential problems with the bill.

Assemblyman Christensen:

Something that has bothered me about this bill from the very first day we heard it was making it mandatory for people to sit in a class. It would be a burden on the Ethics Commission that is already busy and would be a burden on the individual. At that time, it occurred to me that this training could be made available by some other means. Possibly it could be something like when you download the Adobe Acrobat Reader and you click that you agree to their terms. People would agree that they will go to the State's website and take the training. Then the onus is on them because they clicked the box saying they would participate in the training.

Assemblyman Conklin:

That is exactly what we had envisioned, and on line 10, page 1 of the mock-up, the language could read, "complete a course on ethics in government that is administered or approved ...," so it could be an online class, but we would not be limiting the possibilities. If it would be easier to mail a CD, and a CD costs 50 cents, the individual could use his own computer or a website.

Assemblyman Christensen:

I just want to keep the costs down, keep it simple, and put the onus on the person who wants the privilege of lobbying.

Patrick Guinan:

Assembly Bill 142 does contain the definition of "gift" in Section 14. This is the definition as it exists in law now and was taken from the lobbying chapter. I suggest that the Committee, as a part of its ultimate vote on this bill tonight, would want to be certain the definition of "gift" in Section 14 comports with the changes we made to the definition of "gift" in A.B. 335.

Assemblywoman Gansert:

For the record, there are a number of people who believe one must be in a room in person to take ethics training, but I think this is a step in the right direction. It would be hard for people in rural areas to come in to a central location for this training, plus we have not had this requirement before, so I am fine with what has been proposed.

Chair Koivisto:

I like it, too.

Assemblyman Settlemeyer:

I appreciate the recommendation for online training and reducing the costs involved in this ethics training. People are appointed to many boards and

commissions around the State, but if it becomes too expensive or involves too much travel, people will no longer want to serve on these boards, so this is a good suggestion and will increase diversity by having other counties involved and not automatically excluded due to the costs and difficulty of extensive travel.

Could someone clarify why the employees or members of government in political subdivisions are exempted? These people all lobby us at one time or another.

Chair Koivisto:

Where is that in the bill?

Assemblyman Settlemeyer:

It is on page 5, line 29, of the mock-up ([Exhibit K](#)) where the language reads that a lobbyist does not include "Employees or members of any branch of State Government, or of any political subdivision of this State"

Assemblywoman Kirkpatrick:

In the Government Affairs Committee we see state agency personnel frequently, on a daily basis, and they can be rather persistent.

Chair Koivisto:

The difference may be that their lobbying activities are directly related to the scope of their employment and their employment is with the State of Nevada or a local government. Do you think they should get that ethics training CD, as well?

Assemblyman Settlemeyer:

Could we include county or city employees and leave it at that?

Assemblyman Conklin:

Mr. Settlemeyer has a good point. These people do lobby and, while they may not have a budget, they are still here talking to Legislators. They ought to be subject to ethics training prior to participating.

Assemblywoman Kirkpatrick:

That is a good point. Ethics training should be required of government employees who make policy or lobby based on policy, because those are the people who come and testify before the Legislature.

Chair Koivisto:

Would those be agency directors, and so on?

Assemblywoman Kirkpatrick:

Yes, that is right—directors, managers, and people with those responsibilities.

Chair Koivisto:

Committee, what do you think?

Assemblyman Settlemeyer:

What I am after are the agency personnel we see on a daily basis. I do not want to capture the ones who might just come testify on one issue.

Chair Koivisto:

Right, we would be going after agency heads and managers, et cetera.

Assemblyman Conklin:

Could we lift the language Mr. Settlemeyer spoke of where it says, "Employees and members of any branch of state government, or of any political subdivision of this State, who confine their lobbying activities to issues directly relating to the scope of their office or employment"? Is that the person you are talking to or is that the person you want to exempt? Is the person you do not want to exempt the person who is "the" lobbyist for the city, county, wildlife department, or whatever?

Assemblyman Settlemeyer:

I am okay with the individuals who are within the entity because they will be included by the clause that says "elected or appointed." Is that correct? Those are not the entities under discussion; it is the overall heads of agencies.

Assemblywoman Kirkpatrick:

Give me an example. Are you thinking of the public works person who comes before us representing public works, or the person from the Supreme Court who comes before us? Most of those people are managers or directors of governmental affairs within their agencies. I know who he is speaking about and they come before our committees on a daily basis.

Assemblyman Conklin:

Could this be defined in Section 1 and have the language read, "or any government official whose primary job is to lobby another body"? If you work for a city, but you are the city's government affairs director, you would take the training on ethics. If you are the public works chairman and you come to

Carson City for two bills during a legislative session; you do not have to take the training.

Assemblyman Christensen:

So a person involved in government affairs for their agency would fall under this statute, but a city manager who we might see here two or three times would not be captured because that is not their primary job. If we go with that definition, are we leaving a big gray area in the middle, or do we think that language will capture who we want to capture?

Assemblyman Conklin:

We are only in session 120 days every two years and, as a general practice, we try to write the language broad enough so it can be interpreted to capture those with our intent; and this discussion certainly creates intent, but the language is narrow enough not to capture those we do not want to include.

Chair Koivisto:

Maybe we could say, "whose primary job is to lobby or influence legislation or policy".

Assemblywoman Kirkpatrick:

At the same time, if you are the Deputy Director for the Attorney General's Office, you are going to see people a little more often throughout a year. I was trying to make the language broad enough to require people dealing with policy making to take ethics training. You only need to take the ethics class once.

Assemblyman Conklin:

I think the language Patrick has covers the situation: "Any government employee whose primary function is to lobby other governmental entities on his employer's behalf or on behalf of his governmental agency."

Chair Koivisto:

I am ready for a motion.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 142 WITH THE MOCK-UP AND INCLUDING THE
REQUIREMENT THAT CERTAIN GOVERNMENT EMPLOYEES TAKE
AN ETHICS CLASS.

Assemblyman Conklin:

I would further amend the bill to include Craig Walton's second suggested amendment which would require the Secretary of State to provide access to

lobbyists' reports on his Internet website and also accepting his fifth amendment pertaining to "gift" and its language in NRS (*Nevada Revised Statutes*) 281.481. The first section says, "A public officer shall not seek and/or accept." Both amendments are good and should be included.

Patrick Guinan:

Mr. Conklin does not want to have "seek" deleted. There is one section where the wording is "seeking and accepting," but in other sections the language just reads "accepting." Mr. Conklin would like the language to be consistent by adding "seeking."

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS ASSEMBLY BILL 142 WITH THE MOCK-UP PROVIDED IN THE WORK SESSION DOCUMENT, THE AMENDMENT PREVIOUSLY IN HIS MOTION; AND ADDITIONALLY, WITH THE JUST-DESCRIBED TWO AMENDMENTS PROPOSED BY CRAIG WALTON.

Chair Koivisto:

Does your amendment include raising the fines for ethics violations?

Assemblyman Conklin:

For clarification, let me restate the motion. Mr. Segerblom moved to Amend and Do Pass, adding amendments from the work session document:

- Item A, delete the portion requiring monthly reporting of all measures on which a legislative lobbyist has lobbied;
- Item B, Craig Walton's amendments are included;
- Item C is already included in the mock-up amendment;
- Item E, include the raise in fines;
- Revise the term "gift" as defined in A.B. 335;
- Fix Section 1 to include any government employee "whose primary function is to lobby other governmental entities on his employer's behalf"; and,
- Change the language on page 1, on lines 10 and 11 to read, "complete a course on ethics in government that is approved by the Commission on Ethics."

Chair Koivisto:

All right, is there a second?

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Are there any questions?

Assemblyman Christensen:

Ms. Hansen was concerned about the burdens imposed on unpaid lobbyists in the original bill. Have those concerns been addressed? [Several unidentified people nodded, "Yes."] So that language is out? Great.

Chair Koivisto:

Are there any other questions? [No response]

THE MOTION PASSED UNANIMOUSLY.

We are all through with Assembly bills and we will not be meeting next week. Thank you all very much; we are adjourned [at 7:24 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblywoman Ellen Koivisto, Chair

DATE: _____

EXHIBITS

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

Date: April 12, 2007

Time of Meeting: 3:55 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
AB 570	C	Patrick Guinan, Committee Policy Analyst	Bill summary and proposed amendments
AB 506	D	Patrick Guinan, Committee Policy Analyst	Bill summary and proposed amendment
AB 604	E	John Griffin, Kummer Kaempfer Bonner Renshaw & Ferrario	Mock-up of the bill
AB 604	F	Patrick Guinan, Committee Policy Analyst	Bill summary and proposed amendment
AB 606	G	Patrick Guinan, Committee Policy Analyst	Bill summary and proposed amendments
AB 606	H	John Griffin, Kummer Kaempfer Bonner Renshaw & Ferrario	Mock-up of the bill
AB 335	I	Patrick Guinan, Committee Policy Analyst	Bill summary and proposed amendments
AB 142	J	Patrick Guinan, Committee Policy Analyst	Bill summary and proposed amendments
AB 142	K	Patrick Guinan	Mock-up of the bill