

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

**Seventy-Fourth Session  
March 30, 2007**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 2:49 p.m., on Friday, March 30, 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. In addition, the meeting was teleconferenced to the Director of Elections, Office of the Minnesota Secretary of State, Saint Paul, Minnesota. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Ellen Koivisto, Chair  
Assemblyman Harry Mortenson, Vice Chair  
Assemblyman Chad Christensen  
Assemblyman Ty Cobb  
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 Marcus Conklin (excused)



**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Mark Gibbons, Associate Justice, Supreme Court  
Cam Ferenbach, Member, Board of Governors, State Bar of Nevada  
Bruce Beesley, Vice President, State Bar of Nevada  
Gary Poser, Director of Elections, Office of the Minnesota Secretary of State, Saint Paul, Minnesota  
Joseph Turco, representing the ACLU of Nevada  
Rena Meyers-Dahlkamp, representing the Progressive Leadership Alliance of Nevada  
Matt Griffin, Deputy for Elections, Office of the Secretary of State  
Larry Lomax, Registrar of Voters, Clark County  
Alan Glover, Carson City Clerk-Recorder  
Barbara Griffin, Douglas County Clerk-Treasurer  
John Wagner, representing The Burke Consortium, Carson City, Nevada  
David Schumann, Vice Chairman, Nevada Committee for Full Statehood

**Chair Koivisto:**

[Roll taken.] Let us begin by hearing Assembly Bill 505, which is the Supreme Court's bill.

**Assembly Bill 505:** Changes the period for the filing of declarations, acceptances and certificates of candidacy for certain judicial offices. (BDR 24-652)

**Mark Gibbons, Associate Justice, Supreme Court:**

This bill is being sponsored by the entire Nevada judiciary through the Judicial Council of the State of Nevada. We feel this is one of the most important legislative matters affecting the judiciary that the Legislature will be considering this session. Since our *Constitution* currently provides for the election of judges, the judiciary wants to do whatever it can to restrict unnecessary fundraising in judicial elections. Judicial elections should be conducted differently than partisan elections for legislative and executive branches of government.

For those who are not familiar with judicial races, the term of office is six years. Our last major judicial election was in 2002. In that year, approximately 60 percent of all District Court races were uncontested. Also in that year, there were two Supreme Court seats up for election and only one of those was contested.

Unfortunately, with the current May filing date and an August primary, all judicial candidates had to commence fundraising long before they knew if they had an opponent. We believe it is critical for the Legislature to address the filing-date issue this session, since 56 of the current 64 District Court seats are up for election in calendar year 2008, together with two Supreme Court seats, and approximately one-third of the 60 Justices of the Peace throughout the State.

Judges work similarly to the way you do while you are in session. Judges spend their working days in court and, just as members of the Legislature take their reading materials home at night to prepare for the next day's committee meetings and sessions, judges do the same thing to prepare for the next day's court sessions. Justices also have after-hours duties such as reviewing search warrants. Judges will function better and give citizens their best service if they are free to do their court duties, both during working hours and after working hours, and not be out fundraising.

If the Legislature sees fit to pass Assembly Bill 505 to change the judicial filing date to the first two weeks in January, the majority of the Supreme Court has agreed to change our Canon 5C(2) of the *Nevada Code of Judicial Conduct* to prohibit fundraising in any Supreme Court, District Court, or Justice Court race by any candidate, unless the race is contested. Currently, any judicial candidate can commence fundraising 240 days before the primary. If A.B. 505 becomes law, the Supreme Court would delay the period to commence fundraising until after the close of the filing date. Under A.B. 505, the judicial filing date in 2008 would commence Monday, January 7, and end Friday, January 18.

In summary I would urge the Committee, if you agree with us that A.B. 505 is a critical first step for judicial reform, to vote upon the bill as soon as you feel is prudent.

**Assemblyman Segerblom:**

In the past year, all the courts in Nevada have come under a great deal of scrutiny and some bad publicity. Do you feel this addresses that issue?

**Mark Gibbons:**

Yes. This is a huge first step toward addressing that issue. I realize judges have been criticized in the media for fundraising practices and timing. This bill was proposed in the past because judges have been interested in fundraising reform for years. Assembly Bill 505 would restrict fundraising to those people who actually have contested races.

**Chair Koivisto:**

Are there any other questions from the Committee? [No response.] We have a number of people who have signed up in support of A.B. 505. I see no one in opposition.

**Cam Ferenbach, member, Board of Governors, State Bar of Nevada:**

The Board of Governors reviewed this bill and unanimously voted to support it. It would enhance the operation of the judicial system by reducing the necessity for judges to raise funds and allowing them more time to do their jobs. They would not have to be involved in the political process if they were not being challenged in an election and we urge the Committee to vote for this bill.

**Chair Koivisto:**

We have received a letter from Craig Walton ([Exhibit C](#)) supporting A.B. 505.

**Bruce Beesley, Vice President, Board of Governors, State Bar of Nevada:**

I am here to speak in support of A.B. 505. For a judicial system to work well, two things have to exist: You have to have fair and impartial judges and, probably even more importantly than that, you have to have a public who perceives that the justice they are receiving is fair and impartial. This bill really addresses that second issue. I do not believe there is a problem with judges in Nevada being fair and impartial, but there is a public perception, at least partly due to the fundraising they must do, that judges are not fair and impartial. This bill will eliminate one area of that concern. Articles published in the *New York Times* and in the *Los Angeles Times* have mentioned the fact that a judge who has no opponent can raise \$300,000 or \$400,000, but not be required to disclose their contributors to the people who appear in front of him or her. Judges are also not required to disqualify themselves when those contributors are involved. This bill will eliminate that aspect of public criticism and public concern about the judicial system, and the State Bar urges your support of this bill.

**Chair Koivisto:**

Anyone who runs for election and serves in a public office is well aware that perception is everything. Is there anyone who wants to testify against

A.B. 505? [No response.] I will close the hearing on A.B. 505 and open the hearing on Assembly Bill 506.

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

**Assemblyman Segerblom:**

Assembly Bill 506 is a Committee bill involving election day registration. The reason is self-evident, given Nevada's history. For example, in the 2006 General Election, with over 2 million potential registered voters, only 57 percent of those eligible to vote, that is people over 18 years of age, were actually registered. Of that 57 percent, approximately 80 percent did vote, but that means only 45 percent of potential voters were involved in that election, so only 23 percent of the people who could have voted in 2006 actually made the difference in the election. We have a democracy that is basically being run by a quarter of the people, and that is a serious problem we need to address.

Eight states have election day registration which means that, if you have not registered by election day you can show up on that day, register, and vote. In 1973 Minnesota enacted its law, and in Iowa, the eighth state, the law is being signed now. In all those eight states there is no evidence of voter fraud or evidence of people voting more than once on election day. Our problem is that not enough people are voting, not that they are trying to commit fraud and vote more than once. With eight states doing it, it is possible. If Idaho can do it, Nevada can do it.

**Assemblyman Kihuen:**

We have all had this happen. It is election day, or early voting time, and neighbors or constituents call saying they want to vote but are not registered. If we pass this bill, it will allow all those people, those procrastinators, to be able to vote. Our duty as representatives of the State is to enable voters to vote.

In the 2000 Election, turnout in the states without election day voter registration was about 59.2 percent. States with election day voter registration had a turnout of 68 percent. That is a 9 percent difference in turnout. Same-day voter registration is effective and allows voters the opportunity to vote on election day. In the 2004 Election, there was a 63 percent voter turnout in the states without same-day voting and a 75 percent turnout in the states that do have it; almost a 12 percent difference.

Our duty as elected representatives of the State is to enable our constituents to have the opportunity to vote, and I echo Assemblyman Segerblom's comments. Right now, they are projecting a 20 percent voter turnout in the Las Vegas city elections. Out of 215,000 people registered to vote, only 9,316 voted in early voting. That means only 9,000 people are making the decisions for the other 200,000 who live in the City of Las Vegas. It is incumbent upon us to promote voting, and I urge your support of this bill.

**Assemblyman Ohrenschall:**

I also support A.B. 506. We have all campaigned walking door to door, and there is nothing more heartbreaking than someone who is a qualified elector and wants to vote but is not allowed to vote. In Nevada, a qualified elector is 18 years of age and, pursuant to the *Nevada Constitution*, a 30-day resident of the State and particular precinct. Because of our statutory requirement, if an individual did not sign up in time, that individual is not allowed to vote. Disenfranchising people is not something we take lightly. Our democracy is strengthened by greater participation within our democracy. I am distributing a letter from Harry Reid, Majority Leader of the U.S. Senate, in support of this bill ([Exhibit D](#)), and urge this Committee's consideration of the bill.

**Assemblyman Segerblom:**

We have a gentleman from Minnesota on the phone who will speak now. His name is Gary Poser and he is the Director of Elections for the Office of the Minnesota Secretary of State. Mr. Poser has been head of elections for two counties surrounding Minneapolis. Both counties have over 200,000 people, so he is very familiar with election day registration in Minnesota. Mr. Poser is going to give us a brief background on his experience with election day registration and how it works.

**Gary Poser, Director of Elections, Office of the Minnesota Secretary of State, Minneapolis, Minnesota:**

Our election day registration law was passed in 1973 and first implemented in our elections in 1974. We have had over 32 years of experience using election day registration and are very pleased with it. We have not had any major issues with fraud, which is usually what people ask about. We have been very successful in implementing election day registration and our voters are very happy with it.

We have a pre-registration cutoff 21 days before the election. Anyone who is not registered 21 days before the election can go to the polling place where he would normally vote and register there by providing proper documentation of proof of residence. Once the individual is registered at the polling place he or

she is allowed to cast a ballot just like any other registered voter in that polling place. We have been very successful. Depending on the election and the interest in it, we can have anywhere from 15 to 20 percent of the voters in a state general election register at their polling place on election day itself. Our results have always been positive and we have always been at or near the top among the states in getting voters to come out on election day and vote.

**Chair Koivisto:**

How do you handle sample ballots? In Nevada, we have to get our sample ballots out because we have early voting. I know the county clerks' issue is going to be sample ballots.

**Gary Poser:**

Do you mail a sample ballot to every registered voter?

**Chair Koivisto:**

That is correct.

**Gary Poser:**

We do not have that requirement in Minnesota. We do not mail sample ballots to every registered voter, we publish sample ballots in the newspaper. We have sample ballots available at the county auditors' offices, and we mail a sample ballot to anyone who requests one.

**Chair Koivisto:**

Can you comment on how much the counties save by not having to print and mail sample ballots, versus publishing in the newspaper? Is that a savings?

**Gary Poser:**

Yes, I would say it certainly would be a savings. I have been in elections here since 1988 and we have been publishing sample ballots since then. I do not know whether Minnesota ever mailed out sample ballots to registered voters, so I do not have any costs to compare.

**Assemblyman Ohrenschall:**

You said if someone seeks to vote after the 21-day cutoff, that person just needs to come in on election day with proper proof of residency. What do you accept as proper proof of residency?

**Gary Poser:**

We accept a variety of different documentations. The most common we receive is a driver's license with the voter's current name and address on it.

Over 80 percent of the people who register on election day use that proof. We also take a driver's license with a former address on it as long as they also come in with a current utility bill with a due date within 30 days of the election. If that had their current address on it, they would use those two pieces together as proof in order to register on election day. We take student ID cards and tribal ID cards. We use school housing lists, so if a university has dormitory housing, they provide a list of who is residing in their dormitories to the precincts and a voter could use that for identification. We also allow a registered voter in that precinct to vouch for someone else. They sign an additional oath attached to the registration that would say, "I am a registered voter in the precinct and I know this particular person lives at such and such an address in this precinct." If someone does register late, and say 14 days before the election we receive a registration application from an individual, we will mail them a notice from the county auditor's office saying, "We have received your registration but it is too late to register for this upcoming election so we have mailed this notice to you. You can bring this notice in and use it as proof to register at the polling place on election day."

**Assemblywoman Kirkpatrick:**

What about the election results? How does that work? What is the time frame? We are spoiled in Nevada; within two hours after the polls close we have a pretty good sense where an election is headed.

**Gary Poser:**

There really is no difference in the receiving of the results. Once the voters are registered, they cast their ballots in the polling place and those are counted on election day. They vote a regular, optical scan ballot that is fed into the machine just as everyone else's ballot in that precinct. Once all the ballots are cast, they would get the results for that precinct by printing the tape.

**Assemblywoman Kirkpatrick:**

Is there verification of those voters who register on election day? When does that happen?

**Gary Poser:**

As an election day registration state, Minnesota does not have provisional voting. We are exempt from the Help American Vote Act (HAVA) provisions so we have only the actual ballots that were cast. There would be no determinations made after election day on whether to accept or reject a ballot. We register the voters and the election workers in the polling places are trained as to what documentation they can accept for someone to register on election day. Once they have been satisfied by the proof shown, they would say that



the person is registered, and that person would receive a regular ballot in the polling place.

**Assemblywoman Gansert:**

You scan ballots to tabulate the vote, is that correct? Right now, Nevada is on an electronic system.

**Gary Poser:**

That is correct; Minnesota is strictly an optical scan state. We do not have any direct-record electronic (DRE) devices.

**Assemblywoman Gansert:**

Are there any states you are aware of that have electronic voting and also same-day voting?

**Gary Poser:**

Wisconsin is an election day registration state and some of their assisted voting technology uses DREs, but I am not familiar with how they combine their vote totals.

**Assemblyman Segerblom:**

How would you compare the amount of identification required for someone who registers before the 21-day deadline, and someone who has to register on election day?

**Gary Poser:**

In Minnesota, the person registering on election day is the one who is receiving the most scrutiny of anyone attempting to register because they are registering in person, in front of a trained election official, and showing documentation of their identity and their residence. In Minnesota, if you register in person at the county auditor's office, you simply fill in the application form and hand it to the clerk behind the counter. There is no identification required at that time. We would simply mail the individual a postcard once that person was in the system. We are requiring more of the person who is registering on election day than we require of any other voter who is registering.

**Assemblyman Munford:**

With all the identification they must show to prove their eligibility to vote, is that time consuming? Do you have long lines? Do you ever go beyond the hour of 7:00 p.m.? Would that delay counting votes?

**Gary Poser:**

It increases the number of people coming into the polling places. After 30 years, our city clerks or the people manning the polling places have become accustomed to knowing if they are in an area that would require a lot of election day registration. They would have additional workers in those particular polling places to handle the additional numbers of people who would be registering to vote on election day. We have an 8:00 p.m. closing time here but I do not know whether people register to vote at 8:00 p.m. We certainly would have people waiting to vote if they came into the polling place at 8:00 p.m. That might delay the results of that particular polling place, but I do not know if that could be solely attributed to election day registration.

**Assemblyman Kihuen:**

There are allegations of increased amounts of fraud on election day. What kind of fraud, if any, have you encountered in Minnesota?

**Gary Poser:**

We have not had any influx of fraud due to election day registration. I do not know of any prosecuted cases where someone intentionally voted in two locations or anything like that. I cannot think of anyone who has been prosecuted for committing election day registration fraud in the 17 years I have been involved with elections here in Minnesota. We are requiring identification at the polling place, so they need to have some type of ID and documentation that they must show to the workers in the polling place. They are aware that it is a felony with a five-year imprisonment or a \$10,000 fine, or both, if they were to register and vote twice. We have had a statewide voter registration system in Minnesota since 1989, so if anyone were to attempt to vote twice, that person would certainly be caught and prosecuted.

**Assemblyman Settlemeyer:**

I see that Minnesota has the same requirement as Nevada, that an individual must be a resident for a period of time prior to voting. How do you verify that an individual has lived in your state to meet your state's requirement?

**Gary Poser:**

That is a part of the oath that they are certifying to. If they give false information, that is the felony punishable by imprisonment or the fine, or both.

**Assemblyman Settlemeyer:**

Do you check the addresses to verify validity?

**Gary Poser:**

Every precinct is supplied with a polling place finder, an address range for the valid ranges within their precinct. When someone is registering to vote and they have shown their proof of identity and residence to the poll worker, the poll worker also checks the address on the card and verifies the individual is in the correct precinct and eligible to register and vote in that particular polling location.

**Chair Koivisto:**

How do you handle challenges at the poll? Do you have much experience with challenges?

**Gary Poser:**

Our statute does allow for challengers to be in the polling place, and they can challenge anyone's eligibility to vote, whether they were pre-registered to vote or whether they were registering on election day. A challenger is able to be in the polling place to say that they have knowledge that a person is not eligible to vote in that particular precinct. The challenge would be handled by the poll worker who is registering the voter. The poll worker asks a series of questions that basically consist of the oath that the voter is signing. The voter has to verbally reply that, yes, they meet all those individual requirements. It is then up to the poll worker, based on the answers given by the voter, whether or not they would register that individual and allow him or her to vote.

**Chair Koivisto:**

Do you have much challenging going on at the polls?

**Gary Poser:**

Since the elections have become a lot more visible we have had more challengers in the polling places, but I do not believe we have had any higher incidence of successful challenges turning voters away. People have just wanted representatives in the polling place to have challengers available, but I do not believe there have been very many successful challenges done in the polling places.

**Chair Koivisto:**

What is your voter turnout in Minnesota?

**Gary Poser:**

Minnesota is usually number one or number two in the nation. We are in the high-60 percent when looking at the voting age population, but I do not have an exact number.

**Assemblyman Ohrenschall:**

Do you have any historical data on the voter turnout before Minnesota adopted same-day voter registration?

**Gary Poser:**

I do not have that data. We would have to look back to the period before the 1974 election.

**Assemblyman Cobb:**

Did you say a proper form of identification for voting at the polls is a government-issued photo ID?

**Gary Poser:**

For an ID to be used by itself, we would require it to be a Minnesota driver's license or learner's permit. At this point, we do not allow a federal government ID by itself or anything like that.

**Chair Koivisto:**

Are there further questions from Committee Members? [No response.] Is there anything more from the presenters?

**Assemblyman Segerblom:**

We are distributing written testimony in support from Miles Rapoport, President of Demos, a nonprofit research and advocacy organization ([Exhibit E](#)).

**Assemblyman Cobb:**

We just heard testimony from the gentleman in Minnesota that to ensure residency requirements are met in that state when they have same-day voting and registration, they have a process known as "oath" used to register that voter. Is that process available in Nevada?

**Assemblyman Segerblom:**

I do not believe we have that now, because we do not have same-day registration.

**Assemblyman Cobb:**

What would be the process used for same-day voting and registration to ensure that an individual meets a specific residency requirement?

**Assemblyman Segerblom:**

Whatever we have now, but if we have an oath they would have to show a photo ID and swear they have been in the State for 30 days.

**Assemblyman Cobb:**

So you are suggesting a photo ID should be required for registration and for voting?

**Assemblyman Segerblom:**

Right, unless you have a neighbor, or someone else, who brings you down and swears under oath that you live here. A driver's license is certainly valid.

**Assemblyman Cobb:**

That is not available under NRS (*Nevada Revised Statutes*).

**Assemblyman Segerblom:**

If we are talking about changing the law, we are flexible to that. Our point is there would actually be a better quality of identification with this kind of registration than you currently have where you mail in a card. The person would be right there, swearing under oath that they are entitled to vote.

**Chair Koivisto:**

When you fill out a voter registration form with a field registrar in Nevada, you raise your right hand and swear an oath that everything you have said is the truth.

**Assemblyman Ohrenschall:**

What Minnesota is doing, using lists of addresses in existence, is good. If someone walks in and says they live at 321 Sycamore, they have the data showing numbers on Sycamore only go up to 280. That kind of program could be adopted in Nevada, possibly through the *Nevada Administrative Code*, or through the individual registrars, to ensure integrity. What Minnesota, Wisconsin, and these other states are doing with their great voter turnout and minimal fraud is something we can look to in terms of how to implement our plan.

**Assemblyman Kihuen:**

Referring to Mr. Cobb's question, in the State of Nevada, if it is your first time to register to vote and you were not registered by a registrar, you still have to present your ID if you are voting for the first time at the polls.

**Assemblywoman Kirkpatrick:**

For the record, I am not tolerant of people who wait until the final day to register. We have a great system in Nevada, but trying to be open minded about this, what is the fiscal impact? I have spent considerable energy getting people to use their sample ballots, but I heard those would not be needed if we

went to same-day voter registration. Are we trying to offset the fiscal? Will we be keeping the sample ballot? It is great for efficiency, speeds up voting, and people know how to use it.

**Assemblyman Ohrenschall:**

The Director in Minnesota testified that they do not mail sample ballots. They save on the costs of postage by printing the ballot in the newspaper, and I thought I heard him say they put it on the Internet, as well.

**Assemblywoman Kirkpatrick:**

Did they say what their sample ballot looks like? How thick was it? Was it ten pages in the newspaper?

**Chair Koivisto:**

I do not believe Minnesota is a state that allows initiatives. What you would find is it would take more pages in the *Minneapolis Star Tribune* or the *St. Paul Pioneer Press* than it would in the *Morris Tribune*. My mother at age 95 is able to figure it out, so it cannot be too tough.

**Assemblywoman Kirkpatrick:**

I can figure the ballot out if it is in the newspaper, too. I am wondering how much of the newspaper it would involve and how many pages? Would there be a special voting section? Is their population close to ours in number? How do they compare with Nevada?

**Chair Koivisto:**

They have a much larger population. Minneapolis-St. Paul is a big metropolitan area, and Duluth is fairly big. I would venture to guess it would take up a section of the newspaper, much like when the tax rolls are published.

**Assemblyman Segerblom:**

This bill does not address that particular issue. This would not change the current practice of sending out sample ballots. Anyone who showed up to vote, who was not already registered, obviously would not receive a sample ballot in the mail because they were not on the list.

**Assemblyman Goedhart:**

The gentleman from Minnesota said they did not have to comply with HAVA. Is that correct?

**Assemblyman Segerblom:**

Yes, they have an exemption because they vote on the same day as they register to vote.

**Assemblyman Goedhart:**

We are already complying with HAVA, so how would that interface with this proposed piece of legislation? Have we had any input from the Secretary of State's Office?

**Assemblyman Segerblom:**

We do not know if we can get out from under HAVA.

**Assemblyman Goedhart:**

We have already taken some federal funding, and in conjunction with that many strings are attached regarding different compliance measures we are mandated to follow. Would that add another level of complexity to the issue?

**Assemblyman Settlemeyer:**

What is the fiscal note?

**Assemblyman Segerblom:**

We do not have a number. I am sure we will hear from the election people that they cannot afford to do it, but this is a policy committee and not a fiscal committee. We believe the real tradeoff is between having 23 percent of the people of the State of Nevada dictate democracy to the other 50 percent. Whatever it costs it is worth it.

**Chair Koivisto:**

If there is a fiscal note, the bill will be forwarded to Ways and Means.

**Assemblyman Settlemeyer:**

I question the concept of having to buy a newspaper to get a sample ballot, as a *de facto* poll tax.

**Chair Koivisto:**

Probably newspapers would be distributed. You get a newspaper when the tax rolls are printed and you can get a sample ballot at the polling place.

**Assemblyman Settlemeyer:**

I have numerous constituents who rely heavily on the sample ballot.

**Chair Koivisto:**

If they are registered, they will get a sample ballot.

**Joseph Turco, ACLU (American Civil Liberties Union) of Nevada:**

This is a matter of democracy and a nonpartisan issue. Procrastination knows no partisan bounds. Democrat, Republican, rich, poor, black, white, man, woman, old, or young, procrastination exists as a human nature among all of us. Many of you have constituents who are procrastinators. We are in a situation in which we have about 20 percent of eligible people voting. Yes, the Mayor of Las Vegas will get his mandate, but what is it, really, when it is only 80 percent of 20 percent of the voters. The issue really goes to whether government is truly at the consent of the governed.

The question of fraud does arise, but I do not believe any credible evidence can be produced that individual voters risk felony by impersonating someone else at the polls. Voting fraud does occur, but not in this manner.

Regarding cost, freedom is not free. There will be costs associated, but they must be balanced against whether or not we are going to have integrity and true voter participation.

None of the states that have same-day registration have reported any significant repercussions in terms of cost or fraud, nor has either party been favored by it. For those reasons it is a good, nonpartisan bill, and it is a bill that should, and hopefully, will be passed.

**Rena Meyer-Dahlkamp, representing the Progressive Leadership Alliance of Nevada (PLAN):**

PLAN is in strong support of A.B. 506 and we urge the Committee to look at the experience of the other states that have passed similar legislation. The opportunity to increase voter turnout from 8 to 15 percent above the national average favors voters across the board. In referring to Mr. Settlemeyer's question concerning proving the length of one's residency within a state, my driver's license documents the day it was issued.

**Assemblyman Settlemeyer:**

Are you okay with a photo ID registration being required to vote?

**Rena Meyer-Dahlkamp:**

I just contributed that information because the question about proof had been raised. If the date that a drivers' license is issued is listed on Minnesota's licenses as it is on Nevada's licenses, that might be how Minnesota documents



that a person is a resident, in addition to the utility bill. Also, people can request sample ballots in Minnesota, and that has worked well for decades.

**Assemblyman Goedhart:**

We want to increase participation in the democratic process, making it as easy and successful as possible for people to vote. All of us who realize how important elections are also realize we have to have results. The process must not only be transparent enough, but also have enough checks and balances that we can be confident in the results of those votes. The presenter from Minnesota said there had been no evidence of voter fraud, but if you do not look for it, you will not find it. In business, I have always been told that if you look for something hard enough, you probably are going to find it. I just punched in the words "voter fraud/Wisconsin" on the Internet and out popped an article about people from other states who registered and voted in Wisconsin. With that accessibility, there may also be a lessening of the procedures to make certain elections are valid.

**Joseph Turco:**

Mr. Goedhart's statistics show that most voter fraud occurs by election officials. A good deal of voter fraud occurs by intimidation at the polls. A good look at voter fraud is a great idea. The instance you described is rare indeed and the statistics and analyses bear that out. Most of the voter fraud comes in other areas.

**Assemblywoman Kirkpatrick:**

Is there any way to compare transient rates among states allowing same-day voting? Nevada is a high transient state with 6,000 people moving in and 1,900 people moving out every month.

**Patrick Guinan:**

I am sure there is a way to get those numbers and I will be happy to look for you. Probably one would have to compare census data, kinds of employment available in the states, and what people's income levels are in those states.

**Assemblyman Christensen:**

To register any of my boys for soccer, I have to produce a birth certificate. You mentioned using drivers' licenses, but my concern relates to the German exchange student who lived with my family and got a driver's license, so that does not do a whole lot. I do have a huge concern about fraud and the propensity for that to happen, especially as races get really tense near the end. Did I miss any conversation about people providing proof of citizenship, or something more than just their driver's license, to prove who they are to vote?

**Assemblyman Kihuen:**

Obviously, I am concerned about voter fraud. I want to make sure every election is run as cleanly as possible, but I do not have the answer to your question.

**Chair Koivisto:**

The testimony we heard was that they do not have a high incidence of fraud because it is a felony and people, when they are registered at the polls, have to swear an oath. If they are lying, they can go to jail.

**Assemblyman Ohrenschall:**

If someone is willing to commit a criminal act, they are willing to commit a criminal act whether it is the day of the election or 30 days before the election. The date we cut off registration will not stop fraud. If there are people who want to commit fraud, they will be willing to commit fraud 90 days before the election or on election day. What Minnesota is doing in terms of requiring proof of residency is a good policy, but the date when voter registration is cut off could either promote or dissuade fraud.

**Assemblyman Cobb:**

The gentleman from Minnesota said they have a statewide system where they check the names during early registration, which is an added way to combat potential fraud. Maybe we have that system in Nevada.

**Chair Koivisto:**

He said they have a statewide voter registration system put in place in 1989.

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

The position of the Secretary of State's Office is in support of the idea. By "idea" we mean either same-day registration, or reducing the cutoff day for registration down as much as practicable. When comparing Minnesota's practice with practices in Nevada, we find those practices are based on each state's statutory scheme. Since the Nevada Legislature decided which way to go with voting, our statutes have become molded around that philosophy. Minnesota has taken a different approach. Which approach is better is not a position for the Secretary of State's Office to comment on, but our Office really does have an interest in working with the clerks to establish what is possible—the best possibility being an election day with a very minimal cutoff on registration—and what kind of steps can be taken in advance to do this. There are a lot of different considerations we must be aware of including technological concerns. When you are looking at an election, you must balance two factors: voter participation versus voter security. It is a balancing factor and we should

revisit the best ways to accomplish that. If more voters turn out when deadlines are loosened, and if you can secure the voting, it would make sense to try and figure out how to accomplish election day voting.

**Larry Lomax, Registrar of Voters, Clark County:**

The reason I am against the bill is not the concept of election day voting. The bill does not address virtually any of the issues that election day voting entails and that must be resolved and clarified in the statutes before you can move to that process.

We currently publish in the newspaper, on three different occasions, all the ballot questions and the arguments for and against. In addition, all that information is on the Internet.

If we are going to attempt to move in this direction, I have identified six areas that need to be addressed. As has been pointed out, there are seven states that currently use election day registration. All the discussion today has been about Minnesota, yet this bill is modeled after Montana. The other six states allow one to register at the polling place, yet this bill says you have to register at the clerk's office. Registering at the clerk's office presents a considerable problem, especially in a county the size of Clark County. As has been pointed out, there are a considerable number of unregistered voters in Clark County, theoretically in the vicinity of 500,000. As was also pointed out by the gentleman from Minnesota, the history in Minnesota and Wisconsin of election day registration in a presidential election is that approximately 20 percent of the people who vote, register on election day. In Clark County, that would translate to somewhere between 120,000 and 150,000 people registering to vote on election day. I am not exaggerating those numbers. The registrar of voters of the county in which Minneapolis is located said that during the presidential election in 2004, over 100,000 individuals in that county registered to vote on election day. That is a county with a smaller registered voter population than Clark County currently has, so it is not unrealistic to say that somewhere in the vicinity of 150,000 people would want to register to vote. Obviously, we are not going to be able to handle that kind of volume at a couple of county clerk offices here. If you are going to move to election day registration, my position would be that it would have to be done at the polling places. That is the only conceivable way in which you are going to address the volume, not only in Clark County but, proportionately, in all the counties.

No matter where the applicants are registering to vote, we would have to use the model used by Minnesota, Wisconsin, and the other states, with the exception of Montana. The voter would come in, fill out a voter registration

form, and then be allowed to vote. There would not be the time or capability to enter that person into a voter registration system to validate the data the person had placed on the voter registration form. That is the way they do it in those states and they accept that. I want to explain the implications of that in the State of Nevada. Currently, when you register to vote, you fill out a voter registration form. If we receive it through the mail, we are not going to see an ID at that time, so you will be asked for it the first time you show up in person to vote. If you register in person, we will ask to see your ID. On that voter registration form is an oath everyone signs stating the individual is 18 years of age, a citizen, and has met any other requirements.

Once we receive the form it is entered into our election management system, or voter registration system, as well as the Nevada statewide system. There is a statewide voter registration system currently existing in Nevada. Our system will verify that there are no duplicates within Clark County and validate that the address is legitimate. Let me point out that street ranges do not validate legitimacy. The street ranges on Sahara Avenue in Clark County may go from 1000 to 15000, however that does not mean every number in between those two is a valid address at which you can register. There are a lot of numbers that do not exist in that range and there are business' addresses at which you cannot register. There are mail drops and cemeteries, and we have had people register at them all, but you have to register at a residence address.

In the statewide system, the mandatory number, either a driver's license number or, if you do not have one, the last four digits of your social security number, is matched with what is on record at the Department of Motor Vehicles (DMV) or the Social Security Administration. We receive a report on whether or not that number matches with the name and address provided by that voter. In all cases where insufficient data or incorrect or unacceptable data is supplied by the voter, the voter is sent a letter and has 15 days to respond and correct the information. If the discrepancy is an invalid address, the application will be voided within 15 days. If you go to election day registration, this whole process is not going to take place until some time after the voter has cast a ballot. I am not going to argue about whether that means there will or will not be fraud, I am just pointing out that validation of voter registrations will take place after the election.

Because of the volume of people who registered on election day, Minnesota and Wisconsin officials told me they finish the data entry process for the November election at the end of January or the beginning of February. That is how long it takes them to get all this data entered. If you go to this sort of election day voter registration, I will not even be able to tell you the names of everyone who

voted in the election until the data entry is complete, and we will not have received feedback from the verification systems until that same timeframe is up. This is acceptable in Minnesota and Wisconsin, and I am not saying it is a bad thing. One of you just referenced fraud in Wisconsin. In Milwaukee, Wisconsin, in the 2004 presidential election, as they were going through the two-month data entry process, they found a number of individuals who should not have been allowed to register, but had registered. It was a close race in Wisconsin in that presidential election and I have great sympathy for the registrar in that particular county because that person was under the gun for two months as the information kept dribbling out during the data entry process.

**Alan Glover, Carson City Clerk-Recorder:**

The problems in the rest of Nevada are very similar to those in Clark County, only on a much smaller basis. If you have registration at the clerk's office, there is very limited parking. Even at our two polling places there is limited parking. Two years ago I spoke with the county clerk in Boise, Idaho, about one-day registration. This was in March and they were still entering data from the previous November election and were finding the same problems they find during the year: the address is bad, the name is misspelled; it is a business; it does not exist. Voter registrations are not verifiable until we have checked with DMV and other sources.

**Larry Lomax:**

Continuing with things that need to be addressed, if you are registering at a centralized location, what happens then? Do we give the voter some sort of document they take when they go to the polling place to which they are assigned so people at the polling place know they are registered? These are not issues that can easily be addressed, but they do need to be addressed and the law needs to tell us what to do. You would not, in my opinion, want to have them registering at some centralized location because what happens as we approach 7:00 p.m.? If there is a line of 4,000 people waiting to register, do I call all my polling places and tell them to stay open? Obviously, that is going to become an issue.

The only realistic way is to let them register at the polling place, but then you must consider the volume at the polling place. If I just took the current number of people I expect to vote in the 2008 Election, and 20 percent of them register on election day, that would be 120,000 people. We expect to be using 350 polling places in 2008, so that means approximately 340 people would be registering at each polling place. There are some good articles about this at [electionline.org](http://electionline.org), a website that addresses election issues. They did a study on election day registration. You will see that in the big counties and in the

precincts where there was a high turnover rate, like near college campuses or in fast growing parts of a city, the average line was about two hours long. There is an argument that can be made that it is better to allow a person to stand in line for two hours and vote, than not to vote at all.

Another issue that has to be dealt with is that two-thirds of our polling places are schools. Security at schools has become a huge issue and we are going to have to work out a resolution to two-hour lines of individuals standing in those schools. Right now, we are attempting to work with the schools and have them close down on election day, similar to the way they did in Washoe County, and make it a teachers' work day.

Logistical issues obviously must be addressed if we are going to register voters at polling places. Right now, you know that in most of our polling places we are pretty tightly squeezed in and there is just enough room for our machines and tables. In Minnesota and Wisconsin, they have separate "judges," individuals specifically sent to the polling places whose sole job is to register voters. I would recommend we do something similar to that; however, that will require extra tables, extra room, and extra people, which will entail extra expense. I also suggest that we will need additional polling places. Same-day voting registration could be done, I suppose, but exactly how we are going to do it needs to be addressed, and I have no idea what the cost would be.

There are a wide range of issues that must be addressed prior to election day. I strongly suggest you take the model of Wisconsin or Minnesota if we are going to move in this direction, and that you close down registration as we do now—about 21 days before the election. Then, anyone who has not registered by that time period would be allowed to register on election day. Do not let them come register every single day throughout the entire period, as this bill does. In fact, this bill allows them to register right up until 9:00 p.m. the day before the election. Registering in that manner does not do us any good because they would not be in a roster book and the workers at the polling places would not know they had registered.

If you allow this kind of registration, many procedures would have to be worked out such as who gets a sample ballot and who does not; can they vote by mail or not; who goes in the roster books and who does not. We have to provide posting lists and master lists of who is eligible to vote and who would be placed on those lists.

Right now when we register someone, we run them through the system that night, assuming everything is done on time. When approaching an election

however, we normally run about five days behind. If we get a bad address or bad data, we send the person a letter and they have 15 days to respond. What do we do if the individual registered ten days before the election? That is another gray area, but if we head in this direction I would strongly recommend that we cut off registration at some point in time, and I still recommend 21 days, which is what we agreed to last time. That gives us time to prepare everything for early voting.

The bill also needs to address the canvassing issues. It needs to instruct us exactly as to what we are going to do. When you heard the gentleman from Minnesota say they were exempt from HAVA compliance rules, what he was talking about was states that allow election day registration are not required to provide provisional voting. That is the HAVA rule they are exempt from and it means qualified individuals must go to their polling place to register and then vote. I would recommend Nevada do something similar. As far as canvassing, we would need to know exactly what we are supposed to verify. When I say Clark County has the potential to register 120,000 to 150,000 people on election day, realize that Clark County only registers a total of 100,000 people in an entire year. We would be registering in one day significantly more people than we currently register in a year.

**Alan Glover:**

Larry Lomax has explained the clerks' concerns about what the rules would be, and those would certainly need to be straightened out. You mentioned sample ballots, and the issue there, in my mind, is a matter of cost. Sample ballots are very expensive to have printed. We mail them out to registered voters and Nevada voters like them very much. Other states do not have sample ballots, but I do not believe you would ever want to take them away from the voters because people do use them. They are a very good tool and help us out. The question is, to help people become informed voters, how many sample ballots would we need to print and keep at the polling places so the voters would have the ballot to look at when they go in to vote? It really speeds up voting if people pre-mark their ballots. We would not know how many additional to order, and what happens if we run out?

The constitutional right to vote is truly paramount; all our election officials know that and are really dedicated. We try to get people registered, we get them in the right precincts, and we do everything to get them in to vote; but voters have constitutional responsibilities also. Those who procrastinate are really taking advantage of their fellow voters and their fellow taxpayers. To implement this is going to cost money. You have heard testimony that the right to vote is more important than the money, but to give you some idea of what is

happening in Carson City, our elections in 2000 cost \$143,270. Last election the cost almost doubled; it was \$277,875. Elections are getting very expensive and a lot of that expense has to do with HAVA. County money pays for these elections, not State General Fund money, and the counties are having trouble paying those costs.

If, as a Committee, you think it is really important to implement this you need to attach funding to it. I would strongly suggest you ask for a fiscal note so you have some idea of the expense. Carson City is going to be laying off a number of people in July because we are in financial trouble. You all know about the fiscal woes in White Pine, Lincoln, and Mineral Counties; but now Lyon County and Douglas County are talking about budget cuts. You have to be responsible in how this is done. Just sticking the counties with the expense saying, "This is good for democracy," is not fair to the taxpayers of those counties.

**Barbara Griffin, Douglas County Clerk-Treasurer:**

I totally concur with what Mr. Lomax and Mr. Glover have stated. In the 2004 General Election in Douglas County, we had a 92 percent turnout, one of the highest in the nation. Voters do care, but there is some responsibility on those voters to participate, and in Douglas County they do. Early voting in Nevada has contributed a great deal to voters getting registered earlier. I would like to know if these other states have early voting, because with early voting, the notice of its schedule is placed in the newspaper and posted in the same locations as our County Commission's agendas. In addition, notice of early voting is also on the County's website. All this advertising for early voting brings an awareness of the upcoming election to the voters ahead of time and so they are registering to vote. People do pay attention to the 20-day close of voter registration prior to an election, and they come in and register. If what the statistics show is true, in Douglas County we would have over 6,000 additional people registering to vote on election day. We are not capable of handling that volume in the clerk's office. I do not have any large facilities in Douglas County, so I use most of our volunteer fire stations. Many of those fire stations are very small and we would not be able to accommodate the additional individuals in those fire stations if we did bump same-day voter registration out to the polling locations.

More importantly, even though we do have a statewide voter registration system, we do not have a live system on election day in these polling locations. There would not be any way for us to key in the name and have it come up on a system to see if they are registered in the State or in the county. I do place computers at my polling locations, but we put the registered voter information on a disc so the information is not live. There would be no way for us to be



able to double check to see if that voter was already in the system someplace else, and that is probably true in the other 16 Nevada counties.

One of the reasons you do not hear about fraud is that it is very, very hard to get our district attorneys, and I believe this is nationwide, to prosecute. They are handling matters of paramount concern, such as criminal matters, and to prosecute a voter fraud, when they may not even be able to find that voter who used a false name, address, and social security number, is difficult. You really have a hard time getting your district attorneys to prosecute. We had one incidence of voter fraud in Douglas County. I was certain our District Attorney would prosecute, but all he said was, "Well, let's call and talk to the individual."

The cost of this idea is huge because we would have to revamp our current computer system, add personnel, and make other modifications. I would say that initial start up costs just in Douglas County would be about \$75,000. It will add a huge layer of expense every election year and I am talking about thousands of dollars, so there is definitely a fiscal note on this.

I have the same concern about our sample ballots. We send them out very early and list the early voting schedule. Our voters have the opportunity to be well informed and to know who the candidates are and what the issues are. Those are also published in the newspaper. If they do not get a sample ballot and they do not see the newspaper, how informed are these voters going to be? We do have some responsibility in that area also.

**Assemblywoman Gansert:**

It is very easy to get a voter registration form, is it not? [Ms. Griffin and Mr. Glover nodded.] Given that we have early voting, do you feel there is a demand for same-day voter registration? Do you get complaints that people cannot register to vote? Do people ask you for something like this because it is not available?

**Barbara Griffin:**

No, we do not. In every county we have people who will come in and say, "Gee, I would like to register to vote," and we explain that it is past the time to register. Registration forms are available in numerous locations in all the counties. We are open late during the close of voter registration so our hours are extended. I have a satellite office in Lake Tahoe so people can register to vote up there, and we have over 50 field registrars in Douglas County. The registration forms are readily available and many of our candidates have field registrars who travel with them when they go door-to-door. Candidates have helped us by making that available.

**Assemblywoman Gansert:**

Once you are registered you can fax in the request for an absentee ballot, so you can get something in the mail to be able to vote. I believe our State has gone to great lengths to make registration and voting very easy for people.

**Assemblyman Ohrenschall:**

I was pleased to hear about the high voter turnout in Douglas County, but I have a question for any of the registrars. With the deadline to register being the same statewide, how do you account for the much poorer turnout in Washoe and Clark Counties as opposed to Douglas? We are trying to increase turnout.

**Larry Lomax:**

I will try to explain what happens in Clark County. If you look at all the demographic indicators of who is likely to vote, and who is likely to register to vote, you will find Clark County is very predictable in that we are going to have a low turnout. An individual is more likely to vote the greater their income is; the longer they have lived in a specific residence; and the older they are. Believe it or not, the average age in Clark County is below the national average. You are more likely to vote if you have a college education, and the higher degree you have, the more likely you are to vote. You can look these demographic indicators up for yourself, and then look up in the census where Clark County ranks. We are a very, very transient, blue collar community and it is very, very predictable that we would have a difficult time getting a high turnout.

I never have argued that election day registration would not make it easier for people to register to vote. I have only attempted to state that this bill does not address virtually any of the issues involved in implementing that, but they all need to be addressed before the State moves in that direction.

**Assemblyman Ohrenschall:**

If the bill were amended such that it did follow the Minnesota and Wisconsin plans, do you believe it would increase voter turnout in Clark County among the younger population, or the working class population that has not resided there as long?

**Larry Lomax:**

Yes, I do.

**Assemblywoman Kirkpatrick:**

Look at other countries throughout the world. In Australia, people are fined \$500 for not voting. That responsibility is taught to them when they are 18. In Turkey, they cut people's fingers off. At what point do you hold a person

responsible? When I was a kid, I was taught that it is the biggest privilege to be able to vote when one turns 18. To this day, my grandmother still gets dressed up, goes to lunch, and makes a huge thing out of going to vote. Three of my children have turned 18, and guess what—the day each one was 18 we got the paperwork and filled it out because voting is our privilege. I do not know what the answer is.

**Assemblyman Goedhart:**

The crux of Mr. Lomax' position is that we need to investigate exactly what the consequences would be of enacting such legislation. To do so responsibly, we must address all the issues that relate to cost, logistics, and a whole, wide variety of factors, including what to do with a case of election day voter fraud. How do you set up a task force so that, if and when checking is done subsequent to the elections, the law can proceed against anyone who voted fraudulently? There are a lot of issues this legislation does not address. There almost needs to be a working committee to go through all the unintended, or intended, consequences of this legislation.

**Assemblyman Mortenson:**

I would like to expand upon Mrs. Kirkpatrick's comments. When people are content, they do not go to the polls. They are happy; they are not discontented with the government, and they relax. It seems to me we should be proud of the fact that this is a contented country. People do not get riled up, run to the polls, and try to vote certain people out of office.

**Assemblyman Segerblom:**

The thought that it is too expensive offends me. We are spending \$10 million a month to bring democracy to Iraq. We ought to be able to spend \$200,000 in Nevada to do the same thing. When Barbara Griffin mentioned Douglas County could not afford to register 6,000 voters on election day so they can vote, something is wrong. We as a government, have a responsibility to encourage people to vote. If it means more money, then I, personally, would be happy to spend it.

**Assemblywoman Gansert:**

Ms. Griffin suggested there were 6,000 more people in Douglas County who could register to vote, but when I asked you about the demand, you really have not had anyone ask to vote same-day because we have so many ways to register, is that correct? There is a potential for 6,000 additional voters, but in reality, has anyone asked you to do that?

**Barbara Griffin:**

I have not had anyone in Douglas County ask for same-day registration. I have had people appear on election day, saying, "Am I registered to vote? I do not know if I am registered. When can I register?" I have not had a demand from anyone requesting same-day registration.

**Alan Glover:**

A lot of those people are going to register to vote. As has been pointed out, we have a nation of procrastinators. If you set today as the last day to register to vote, you would have a huge number of people coming in. It is a matter of the 6,000 people registering on election day, or 21 days before the election. If people are aware, they will get out and register. We need registration to vote spread out over a period of time so we can handle them in a cost-effective and responsible manner, instead of having them all come and hit us on one day. In some ways, we dread the last day of early voting because people wait and then come in, so we are absolutely flooded with voters on the final day of early voting. We recommend people come in prior to the last day because they can come in, early vote, and get out quickly. Actually, that advice is starting to have some effect. We are starting to see an evening-out of voters during early voting. We tell people, "A good time to vote is this particular time; a good time to register to vote is before the close of registration. You have months to come in, so please come in and register." The political parties could help a lot in that area, too.

**Assemblyman Settlemeyer:**

I appreciate Mr. Mortenson's comment, but most of the voters in my area were actually very proud to vote and not angry when they did so. I was going to ask Ms. Griffin if she thought the same.

**Barbara Griffin:**

We have very passionate voters in Douglas County. In 2004, I received phone calls from Switzerland because they heard we had such a turnout. The 6,000 people I mentioned previously do eventually come in to register; however, they would procrastinate and we would end up having them register on election day instead of 21 days in advance. I do not think we are precluding anyone from registering; it is just that they register sooner, rather than later.

**Assemblyman Ohrenschall:**

I registered to vote a few months before I turned 18 and do not believe I have missed an election since. I am very proud of that and respect people who do take it very seriously. If someone is a qualified elector, because they missed a deadline to sign up, they should not be precluded from participating in our

democracy. Responsibility is wonderful and people who value the system are great, but just because someone missed a deadline or was working two jobs and unable to register or get the form, those people should not be penalized.

**Assemblyman Kihuen:**

A lot of people do not feel the actual momentum until the last two weeks of a race, so we do need to allow those people to register up until election day. They have seen the commercials, received the mailers, and it would be irresponsible of us not to allow them to be able to vote after receiving all that information.

**Chair Koivisto:**

If we could have John Wagner and David Schumann come up and speak, recognizing that we have some bills we would like to pass out of Committee this afternoon.

**John Wagner, representing The Burke Consortium, Carson City, Nevada:**

Alan Glover mentioned speaking with a clerk in Idaho who was checking voter registrations from the November election. The clerk said there were registrations with bad addresses, bad spellings of their names, et cetera. These are people who have already voted; now what happens? That means they voted illegally, but the votes have already been counted. What do you do about that?

In Nevada, we have 15 days of early voting, plus election day. That means there are 16 days for people to play games. We are a very small state. It would not take a whole lot of game-playing to turn an election completely around in this State. As far as people being unaware that there is an election, there are billboards advertising candidates. There are people like me knocking on doors. People ask me whether they are registered to vote. I look at my voter registration list and can tell them, "Yes, you are." I then ask whether there is anyone in the house who just turned 18. If the answer is, "yes" I tell them I will get that person a registration form.

Newspapers, the radio, and the television all have advertising about the elections. If anyone does not know there is going to be an election, they must be living in a vacuum or a cave. Is it our responsibility to go out there, dig these people up, and tell them they need to go register to vote? I do not think so.

**David Schumann, Vice Chairman, Nevada Committee for Full Statehood:**

In my mid-twenties, I was a judge of elections in Philadelphia. There was a lot more rigmarole then. We lowered the voting age to 18 because men were dying in Viet Nam, and we felt that if they were old enough to die for us they were old enough to vote. I totally agreed with that, even though I was older at the time. This is really critical to our unique government. If people are not interested enough in voting to make that huge, long journey down to the registrar's office to register to vote, I do not think they deserve a vote. I want voters who are interested enough in the government to read the papers or watch the television to find out what is going on. I do not want voters who are so insulated and isolated from the nation around them that they do not have the time or energy to register to vote.

Who decides not enough people are voting? As someone said earlier, if people do not want to vote, they must be content. The idea that there are not fraudulent elections and that there has been no fraud in any of those states, may be because there are no police spending any time searching for fraud. On the idea of vote-on-the-same day and that there is no fraud—there is no fraud because we do not employ people to look for fraud. If you walked into a jewelry store, scooped up a handful of diamonds, walked out and no one came after you, was there a crime? Yes, there was a crime, but they did not catch you. If you do not turn yourself in, there is no fraudulent voting. Who is going to be silly enough to turn himself in? The states say they have no problem with fraudulent voting, but do not believe that for a moment. Once you are as old as I am, you know there has been fraudulent voting in this country because people on the outside dig into it and find out about it.

This bill is just inviting fraud. If you register the same day you vote, there is absolutely nothing to stop you from doing that in another precinct, and then in another precinct, and in another precinct. As several people have said here today, there is no way to get that information into a database to see if an individual is registered somewhere else. Some of the candidates in the 1960s had people go from state to state to take advantage of these kinds of things.

If you pass this bill, you are bringing Nevada down. We have a clean system. Everyone over the age of 18 has an obligation to vote and I disagree with the idea we should have sympathy for them if they do not do that. We were all 18 once, too. We registered to vote. We need to treat these people like adults. They are not six-year-olds any more. We do not blame a six-year-old if they do something juvenile, but when one is 18, one is old enough to take responsibility, and to get that opportunity to vote is a big responsibility. If you want to exercise that right, then take yourself down and register.

**Chair Koivisto:**

We had voter registration fraud in Clark County but it had nothing to do with same-day voting. These were people who filled out registrations for other people, but if they did not like the party people registered with, those registrations were thrown away. As a result, when people went to vote, they were not registered, even though they had done the right thing. Fraud does not occur only when you register.

**David Schumann:**

Did anyone prosecute those people who threw those registrations away? They should have been prosecuted.

**Chair Koivisto:**

Yes, they should have, but the District Attorney said it was not his job.

**David Schumann:**

Exactly.

**Chair Koivisto:**

Any questions from the Committee? [No response.] Let us bring A.B. 506 back to the Committee. It sounds as though there is a lot of work that needs to be done on the bill. I will close the hearing on A.B. 506 and have Patrick Guinan explain the testimony on Assembly Bill 505 for Committee Members who were not present.

**Assembly Bill 505: Changes the period for the filing of declarations, acceptances and certificates of candidacy for certain judicial offices. (BDR 24-652)**

**Patrick Guinan, Committee Policy Analyst:**

Assembly Bill 505 is a Committee bill on behalf of the Supreme Court relating to elections. It changes the period of filing of declarations, acceptances, and certificates of candidacy for certain judicial offices. It changes the filing times for judicial candidates.

Section 1, subsection 1(a) would add a provision that a candidate for judicial office file a declaration the first Monday in January of the year in which the election is to be held. Currently, the declaration would be filed in May, so this changes the declaration period for judicial candidates to January. The issue presented in testimony was that when candidates file in May, there was not much time for them to run a campaign and deal with an election in November.

Testimony also indicated that judicial candidates cannot raise money for their candidacies until they have found out whether they have a competitor in their races, so judges would not be raising money if they do not have a contested race in a given election year.

**Assemblyman Segerblom:**

Currently, judges do not file for election until May but must start raising money in January. Testimony we heard on the bill was that over half the judges never have an opponent, so they are spending time raising money from January until May, which could have an impact on their jobs. Also, taking money may give the appearance of bias when, in fact, they do not need the money. In January there would be a two-week window when they would file for office. Those judges that do not have opponents would not be allowed to raise money. If a judge does have an opponent, that judge is allowed to raise money the way the current system allows. It is very important that we bring integrity to the judiciary. This is a Supreme Court bill and I would urge everyone to vote for it.

**Assemblyman Settlemeyer:**

Does this bill adversely favor a new person running for office compared to an incumbent since the incumbent cannot raise money and the other person can?

**Assemblyman Segerblom:**

Judicial ethics require that candidates cannot raise money until after the close of filing.

**Assemblyman Ohrenschall:**

We heard testimony from Justice Gibbons of the Nevada Supreme Court saying that if this bill were passed, the Canons of Judicial Conduct concerning fundraising would be changed. Do we know if a majority of the Supreme Court endorses that? Do we have it in writing, or is it enough that one Justice made that pledge?

**Chair Koivisto:**

My understanding is that this bill came forward with the approval of the full Supreme Court.

**Assemblywoman Kirkpatrick:**

I only see two changes in the bill but I thought judges already filed in January?

**Patrick Guinan:**

The change to the filing is in Section 1, subsection 1(a). Subsection 1(b) leaves the filing for other candidates in May, but judicial candidates would file in



January. The rules about fundraising are not in statute or in this bill. Those rules are in the judicial canons Assemblyman Ohrenschall was talking about. The only other change is in Section 2.

**Assemblywoman Kirkpatrick:**

Like most other candidates, they already raise money with the intention to run. If we move the filing date back to January, once filing closes, does their money stop if they do not have an opponent?

**Patrick Guinan:**

That is right. According to the testimony today, if they do not have an opponent after filing closes, then they are no longer allowed to raise money.

**Assemblyman Segerblom:**

Right now, under judicial ethics, they cannot raise money until the first of January. That part of it would stay so no one, either a candidate or a judge, could raise any money before the filing period. At the end of the filing period, if there was no opponent, the judge still could not raise any money. If you do have an opponent, both your opponent and you could raise money.

**Assemblyman Christensen:**

If there is no opponent, there is no fundraising at all. I am looking at this from the perspective of a Legislator with a huge district. Since we have no state budget, my campaign funds are what help me get people to manage my campaign and put together events. I understand the intent, the ethics, and the public's perception—if they do not have a race why should they raise campaign money?

**Chair Koivisto:**

Justice Gibbons from the Supreme Court testified that the judges statewide are on board with this. They are all in support, partly as a result of negative news stories about the Nevada judiciary that have appeared in the *Los Angeles Times* and in the *New York Times*. This is what they are doing to clean up their act.

**Assemblyman Settlemeyer:**

Talking to Judge Gibbons of Douglas County, brother to Justice Gibbons who spoke earlier today, he indicated the bill is beneficial because it would extend the time frame within which judges would be allowed to raise money for an election and therefore there would not be the illusion that their decisions were being influenced by campaign contributors.

ASSEMBLYMAN SEGERBLOM MOVED TO DO PASS ASSEMBLY BILL 505.

ASSEMBLYMAN COBB SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Koivisto:**

Let us look at Mrs. Gansert's bills that we heard yesterday. There is an amendment on Assembly Bill 322 and Patrick can refresh our memories.

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

**Patrick Guinan, Committee Policy Analyst:**

[Read an explanation of A.B. 322, and amendments proposed by Assemblywoman Gansert and the Secretary of State's Office, from his Work Session document ([Exhibit F](#)).]

**Chair Koivisto:**

It is my recollection that there was no opposition.

ASSEMBLYMAN GOEDHART MOVED TO AMEND AND DO PASS ASSEMBLY BILL 322 WITH THE AMENDMENTS PROVIDED BY ASSEMBLYWOMAN GANSERT AND THE SECRETARY OF STATE'S OFFICE.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Let us move on to Assembly Bill 342.

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

**Patrick Guinan, Committee Policy Analyst:**

[Explained the bill summary and proposed amendments from his Work Session document ([Exhibit G](#)).]

**Assemblyman Ohrenschall:**

I had a senior citizen constituent this past election who always votes a mailing ballot. All his family is in other parts of the country. On the day of voting he was not able to turn his mailing ballot in. My sister went down to the Election Department and got a form he was able to sign that allowed her to bring his ballot in to the office so his vote could be cast. Would this bill prevent that kind of scenario?

**Chair Koivisto:**

No, this bill deals with a completely different issue. This bill deals with people who live in precincts with no polling place who must vote using a mailing ballot. It does not have anything to do with people who request a mailing ballot because of illness or other considerations.

**Assemblyman Ohrenschall:**

But under this proposed statute, someone who lives in a mailing precinct who does not have family close by would have no option but to have someone physically take the ballot in if they fell ill or forgot to mail it.

**Chair Koivisto:**

The ability to accommodate that situation is already part of our statute. Last session, this Committee discussed people who live in mailing precincts having someone deliver their ballot because it was late and that practice is acceptable.

**Assemblyman Ohrenschall:**

Under this bill would it have to be a family member? Could it be a friend?

**Chair Koivisto:**

I do not think that is even part of it.

**Assemblyman Cobb:**

The only section that deals with close relatives concerns someone turning in a mailing ballot and then the person for whom they turned the ballot in comes in to vote on election day. That close relative cannot be held liable under any type of fraud statute for having mailed the ballot in, at that person's request. It has nothing to do with showing up on election day and turning in something for an individual voter.

**Assemblyman Segerblom:**

Does your amendment, Mrs. Gansert, allow a mailing precinct voter to vote at a polling place near their mailing precinct?

**Assemblywoman Gansert:**

No, it does not, and Mr. Lomax of Clark County said they could not do that. We could put language in the bill that they make their best effort, or use "may" versus "shall," provide a polling place, if possible.

**Chair Koivisto:**

The problem with that is the voting machines must be programmed for specific precincts. It would be cost prohibitive to ask them to have a voting machine on the off chance someone from another precinct might show up. The request was that, if someone does not want to vote their mailing ballot but wants to vote in person, that they go to the Election Department to vote.

**Assemblywoman Gansert:**

If it is early voting, they can go anywhere.

**Assemblyman Segerblom:**

Why can they not have a few early voting sites? Most of the mailing precincts are fairly contiguous, and to have to go downtown just because a voter happens to be in one of those precincts is an undue burden.

**Assemblywoman Gansert:**

For early voting, they can vote wherever they want. If they want to vote on election day, they need to go to the Government Center or the Election Department.

**Assemblyman Segerblom:**

That is what I am objecting to.

**Assemblywoman Gansert:**

It is a financial issue for them. Larry Lomax mentioned an unfunded mandate. I prefer we allow people in mailing precincts to vote in person because, currently they cannot. The priority is to allow them access, but on election day they will have to go to the Election Department. I would not mind if we change the language in the bill, if it is possible, to "may" versus "shall." If, at some point in time, they are able to logistically manage that and have the computer programs to do it, they could do it and we would not have to come back and change the language again.

**Assemblyman Segerblom:**

Does your amendment have that "may" language, or is that your amendment?

**Chair Koivisto:**

It was your amendment.

**Assemblywoman Gansert:**

You "require" that the polling places be as close as possible to the mailing precincts.

**Patrick Guinan:**

"Require" was my language, but I believe it was Assemblyman Segerblom's intent that the clerks be required to designate a polling place as close as possible to the mailing precinct. Offering language saying "may," could be effective. From what Mr. Lomax said, it did not sound as though they would pursue that option, but using "may" would allow them to if they ever wanted to.

**Assemblyman Cobb:**

I agree this would be cost prohibitive and, perhaps, not appropriate at this time, especially given the fact these individuals live in mailing precincts. All they have to do is return the mailing ballot to vote. It is already very much slanted in their favor. When you add in all the early voting, too, let us just make sure these people have the ability to vote on election day, which is what Mrs. Gansert is trying to do. I fully back the proposal, without making it cost prohibitive.

**Assemblyman Ohrenschall:**

I have mailing precincts in my district, and as I read page 4, line 40, it says, "It is unlawful for any person to return a mailing ballot other than the registered voter to whom the ballot was sent or, at the request of the voter, a member of the family of that voter." I have many senior citizens in my district who are in ailing health and whose families are in other parts of the country. These people are alone and rely on neighbors and friends to help them. These people would not have a family member who could take that ballot in and would not be able to vote. I have a problem with this language on page 4, line 40.

**Patrick Guinan:**

I read that provision as concerning the return of an unmarked ballot in order that the registered voter be allowed to vote in person. That is not a ballot that has been cast, but I will check with our Legal Counsel. That may be an issue we need to clarify before we go on.

**Assemblyman Ohrenschall:**

In either case, I still have a problem with it because I have many constituents who do not have family nearby.

**Chair Koivisto:**

Do they have a mailbox?

**Assemblywoman Gansert:**

They can put it in the mail.

**Chair Koivisto:**

If they are in a mailing precinct and they have a mailbox; that should cover it.

**Assemblyman Goedhart:**

A mailing ballot is just that; it is a mail-in ballot. Most people have access to a mailbox.

**Assemblywoman Kirkpatrick:**

We have not created any new mailing ballot precincts. Eighty-six percent of mailing precincts have been established for at least two voting cycles, so it is not as though we are creating new ones. People are familiar with mailing precincts, but this bill is just saying that, if you forget to mail it, you can go in on election day and vote. Now voters are getting three opportunities to vote: early voting; mail it in; or bring it in. I have taken many senior citizens to vote on election day. I do not know anyone who would turn them down. Even the Election Department will come and get them.

**Assemblyman Ohrenschall:**

I would have no problem with the bill if not for the language "member of the family." It could cause unintended consequences.

**Assemblywoman Gansert:**

We have given people every opportunity to vote except for having a designee walk the ballot in. The voter can put a stamp on it and someone can walk it to the mailbox. There is also early voting. We have opened up so many ways for someone to vote who were limited strictly to mail ballots. I think Legal put that language into the bill for a reason.

**Patrick Guinan:**

Our Legal Counsel has confirmed that the section you are looking at, line 40 on page 4, does refer to a ballot's being returned so that the registered voter can vote in person. That would not apply to someone who was an invalid or

otherwise unable to vote in person. This ballot is being returned so that person can go to the polling place to vote.

**Chair Koivisto:**

Does that help you, Mr. Ohrenschall?

**Assemblyman Ohrenschall:**

So a voter living in a mailing precinct who has either missed the deadline to send it in, or decides he wants to vote in person, must personally return the ballot, or must have a family member return it, so they can vote in person either through early voting or on election day. Is my understanding correct, Mr. Guinan?

**Patrick Guinan:**

Yes, that is correct. The intent here is to ensure that someone who gets a mailing ballot sent to their house, and does not have it stolen or otherwise taken away, would be unable to vote. If a ballot is returned, the voting officials are assured that that ballot is being returned at the request of the voter, and not fraudulently or for some other reason. The question of whether or not the voter is able to get to the polls in order to vote, or chooses to cast their vote by mailing ballot, is not addressed in this section of the bill.

**Chair Koivisto:**

You are concerned about someone who is disabled and unable to vote. I have a number of folks like that who are not my relatives and I have delivered their ballots to the Election Department, as has my husband.

**Assemblyman Segerblom:**

Would what we are voting on have the "may" language that would allow the county clerk to have a secondary location if the clerk wanted to or was able to?

**Patrick Guinan:**

That motion has not been made. I leave that to the sponsor of the bill, or the Chair, to decide if they want to go forward.

**Chair Koivisto:**

Mrs. Gansert, as the sponsor of the bill, you have stated that you are all right with using the word "may" so that, if at some time in the future and if it is not found to be cost prohibitive, the clerks could locate polling places near where mailing precinct voters live. Is that correct? [Mrs. Gansert agreed that it was correct.]

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS ASSEMBLY BILL 342 WITH THE AMENDMENTS BEING THE CHANGE TO THE WORD "MAY" FROM "SHALL DESIGNATE AT LEAST ONE POLLING PLACE" AND THE FURTHER AMENDMENTS PROPOSED BY ASSEMBLYWOMAN GANSERT.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

**Patrick Guinan:**

As I understand it, the motion is to Amend and Do Pass the bill with the amendments submitted by Mrs. Gansert that have been presented on the bill sheet ([Exhibit G](#)), and additionally, to provide that the clerk "may" provide or "may" designate a polling location as close to the mailing precinct as possible if they choose to. Is that correct?

**Chair Koivisto:**

That is correct. Is there any other discussion? [No response]

THE MOTION PASSED UNANIMOUSLY.

With nothing else to come before the Committee, we are adjourned [at 5:30 p.m.].

RESPECTFULLY SUBMITTED:

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Terry Horgan  
Committee Secretary

APPROVED BY:

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Assemblywoman Ellen Koivisto, Chair

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



**EXHIBITS**

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

**Date:** March 30, 2007

**Time of Meeting:** 2:45 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance roster
AB 505	C	Craig Walton, President, Nevada Center for Public Ethics	Letter in support
AB 506	D	United States Senator Harry Reid	Letter in support
AB 506	E	Miles Rapoport, President, Demos	Letter in support
AB 322	F	Patrick Guinan, Committee Policy Analyst	Work Session document and proposed amendments
AB 342	G	Patrick Guinan, Committee Policy Analyst	Work Session document and proposed amendments