

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

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

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara K. Cegavske at 1:37 p.m. on Tuesday, May 8, 2007, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Barbara K. Cegavske, Chair
Senator William J. Raggio, Vice Chair
Senator Bob Beers
Senator Bernice Mathews
Senator Valerie Wiener
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Warren B. Hardy II (Excused)

GUEST LEGISLATORS PRESENT:

Senator Dina Titus, Clark County Senatorial District No. 7
Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1
Assemblyman James Ohrenschall, Assembly District No. 12
Assemblyman Tick Segerblom, Assembly District No. 9

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Michelle L. Van Geel, Committee Policy Analyst
Brian Campolieti, Committee Secretary

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OTHERS PRESENT:

Rena Meyers-Dahlkamp, Progressive Leadership Alliance of Nevada
Matt Griffin, Deputy for Elections, Office of the Secretary of State
Janine Hansen, Independent American Party
John L. Wagner, The Burke Consortium
David K. Schumann, Nevada Committee for Full Statehood
Mark Taylor, Assistant State Controller, Office of the State Controller
Ross Miller, Secretary of State
Oran McMichael, American Federation of State, County and Municipal Employees
Danny Coyle, State of Nevada Employees Association, American Federation of State, County and Municipal Employees Retiree Chapter 4041
Ronald R. Cuzze, Nevada State Law Enforcement Officers' Association
Kevin Ranes, State of Nevada Employees Association, American Federation of State, County and Municipal Employees
Shelley D. Blotter, Chief Personnel Manager, Technical Services, Department of Personnel
J. Pat Gallagher, Elko, Chair, Employee-Management Committee, Department of Personnel
Gary Wolff, Nevada State Law Enforcement Association; Communications Workers of America Local 9111

CHAIR CEGAVSKE:

The Committee will begin today with a request to draft a resolution for Vincent Triggs.

SENATOR WIENER MOVED TO INITIATE A BILL DRAFT REQUEST TO
MEMORIALIZE VINCENT L. TRIGGS.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED (SENATORS BEERS, HARDY AND HORSFORD
WERE ABSENT FOR THE VOTE.)

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CHAIR CEGAVSKE:

I open the hearing on Assembly Bill (A.B.) 506.

ASSEMBLY BILL 506 (1st Reprint): Requires the Secretary of State and the county clerks of each county to study the feasibility of changing the deadline for registering to vote in an election. (BDR S-1338)

ASSEMBLYMAN JAMES OHRENSCHALL (Assembly District No. 12):

During the last election, I encountered people who told me they missed the deadline to register to vote. However, they were registered and qualified to vote but missed the deadline for various reasons. It was frustrating to me to let them know they could not vote because they missed that deadline. I became aware that eight other states have a late deadline allowing voter registration for people who miss the cutoff date. It has been proven these states have a greater participation rate as a result. Assembly Bill 506 considers moving the deadline up by a week or up to Election Day. We want to increase voter participation and maintain confidence in the integrity of our elections. For the Committee's convenience, I provided a handout ([Exhibit C](#)) explaining A.B. 506 in greater detail.

ASSEMBLYMAN TICK SEGERBLOM (Assembly District No. 9):

We originally asked for Election Day registration, but the final drafting of A.B. 506 has become a study to see if the registration deadline should be moved closer to Election Day. The Secretary of State meets with the county clerks every month so he stated he could talk about this issue and report back to us. Again, the reason behind this bill is to encourage more people to participate in the election process.

RENA MEYERS-DAHLKAMP (Progressive Leadership Alliance of Nevada):
We support A.B. 506.

MATT GRIFFIN (Deputy for Elections, Office of the Secretary of State):

The Secretary of State's Office supports A.B. 506. This bill will allow more people to exercise their right to vote. The Secretary of State has researched various other states and their schemes to allow same-day registration with the county clerks. We could not find a state that has a statutory scheme comparable to Nevada's to allow same-day registration and have procedures in effect to prevent fraud.

SENATOR RAGGIO:

Notwithstanding the testimony, 41 other states do not allow for a shorter period of registration than exists today. We have lived within that requirement for

decades. I am not convinced that moving the registration deadline back is meritorious due to the concerns and problems it can create. We are looking at the first reprint of this bill which means the Assembly judged immediate implementation as inappropriate or unwarranted. How will you execute this study? How will you coordinate it with the county clerks, and what kind of empirical data will you get?

MR. GRIFFIN:

We will look for a significant amount of data. For example, the initial proposal in the Assembly was based on Minnesota's scheme which allows same-day registration. I talked with some of the county clerks and discovered a significant difference in the time line for creation of ballots throughout the state.

SENATOR RAGGIO:

I have visions of a candidate desperate to win who can collect people to register to vote without any way to determine their eligibility. That is why 41 states have not moved their registration deadlines. How will you collect this data? Is the fiscal note on this bill still appropriate?

MR. GRIFFIN:

I am unsure of the fiscal note. We want to be sure no fraud is involved with same-day voter registration. The data we collect will help us decide how to implement late registration.

SENATOR HORSFORD:

How will A.B. 506 help increase voter turnout? Should the Secretary of State's Office do this based on the recommendations of the Commission on Federal Election Reform's report?

MR. GRIFFIN:

The Secretary of State should look at this issue. The benefits that can be achieved are crucial for elections.

SENATOR HORSFORD:

Assembly Bill 506 will not only study Election Day registration but also consider any effort to move up the current registration period. Right now, we have a 30-day registration requirement for elections?

MR. GRIFFIN:

That is correct. I do not know what the right fit for Nevada is with regard to elections. Assembly Bill 506 will allow us the chance to discover what system will work.

SENATOR HORSFORD:

I hope that looking at election procedures will give us the needed information to make the policy.

SENATOR RAGGIO:

I am not opposed to the study. However, I have always been concerned about same-day registration. There is a great potential for fraud in this idea. You should not have to beg people to exercise their rights as citizens. People should be informed on what they are voting.

JANINE HANSEN (Independent American Party):

We already moved the registration date to three weeks. Every general election year, we publish the Nevada Families Voter Guide in order to inform voters. It takes much thought and research to become an informed voter. People should be encouraged to participate in elections as responsible citizens. How would someone know what to vote for if they have never researched the issues addressed in the election? Another issue we are concerned with is the potential for fraud. We want people who really care about participating to vote. Our current voter registration law is good as it stands.

JOHN L. WAGNER (The Burke Consortium):

We oppose A.B. 506. How many of these people who show up for same-day voter registration vote in the next election? I am sure it is not many.

DAVID K. SCHUMANN (Nevada Committee for Full Statehood):

We oppose A.B. 506, it is a bad idea and an open invitation to fraud. The state is not denying the right to vote to people by having a deadline for registration three weeks before Election Day. The study proposed in A.B. 506 will cost the state money. This study will be a waste of taxpayers' money.

CHAIR CEGAUSKE:

I close the hearing on A.B. 506 and open the hearing on A.B. 559.

ASSEMBLY BILL 559 (1st Reprint): Authorizes the Governor to designate a temporary replacement if the State Controller or the State Treasurer becomes temporarily incapacitated. (BDR 23-700)

MARK TAYLOR (Assistant State Controller, Office of the State Controller):
The genesis of A.B. 559 was last summer when former Controller Kathy Augustine passed away. The Deputy Director and I determined there might be a need to fill in some holes related to *Nevada Revised Statute* (NRS) 283 where the Governor has the ability to make an appointment if a vacancy has occurred, but no language speaks to incapacity. In our circumstance, we had issues related to financial documents requiring a hard signature of the State Treasurer or State Controller. As a result, we drafted language in A.B. 559 to fill that hole by allowing the Governor, in the event of incapacity of the Treasurer or Controller, to appoint one of the sitting constitutional officers in a temporary capacity to act for the short term signing checks and bonds for the State of Nevada until such time the law requires any further action by the Governor to permanently fill the vacancy.

CHAIR CEGAVSKE:

Why does this only reference the Controller and Treasurer? Are there provisions for other constitutional offices if anything happens to them?

MR. TAYLOR:

The reason for this specific language is because we only deal with financial instruments. The Treasurer and Controller are the two individuals who sign checks, bonds and warrants for the state.

SENATOR BEERS:

What does your organizational chart look like today?

MR. TAYLOR:

There is a chief deputy, assistant controller and several managers.

SENATOR BEERS:

Was that structure in place when Kathy Augustine was incapacitated?

MR. TAYLOR:

Yes, there is specific language within NRS 227 which precludes the chief deputy from signing any warrants and bonds.

SENATOR BEERS:

Why did none of the problems you seek to avoid occur when Kathy Augustine was incapacitated?

MR. TAYLOR:

During the emergency last year, a new Controller was appointed quickly because the series of events happened within a three-day time frame. We met with the Attorney General to make sure we were doing everything appropriately and were given assurances the state was not in danger of any negative financial issues. In addition, part of the expediency was due to the need for the Controller's signature on a bond within the next few days.

SENATOR RAGGIO:

I understand the need to cover a situation where someone is unable to function. Why is it not more appropriate to have the chief deputy in either office appointed to the position? That would seem more appropriate.

MR. TAYLOR:

The chief deputies may be unable to sign documents for either the Controller or Treasurer because they are appointed by the officials and not directly accountable to the people of Nevada.

SENATOR RAGGIO:

There is a problem if, say, the Secretary of State is appointed, he or she will hold two positions at one time. It seems ill-advised to suggest they hold two positions.

MR. TAYLOR:

The specific reasons we chose two constitutional officers was because they were elected by voters.

SENATOR RAGGIO:

Is there some compelling reason why a statute was enacted that does not allow a chief deputy to fill the position left vacant?

BRENDA J. ERDOES (Legislative Counsel):

I know of no reason why.

SENATOR BEERS:

That internal control consideration would preclude signature authority. Do the Controller, Secretary of State, Lieutenant Governor and Treasurer sit on some boards that make policy decisions?

MS. ERDOES:

The State Board of Examiners has the Secretary of State, Attorney General and Governor.

SENATOR BEERS:

Should the Governor have the ability to appoint an accountant or banker if the Treasurer becomes incapacitated? What would you think about that?

MR. TAYLOR:

We would not object to appointing someone else. Whoever it is, we will want the person appointed quickly.

CHAIR CEGAVSKE:

I close the hearing on A.B. 559 and open the hearing on A.B. 605.

ASSEMBLY BILL 605 (1st Reprint): Makes various changes concerning ethics in government. (BDR 23-168)

ROSS MILLER (Secretary of State):

Nevada Revised Statutes does not address how to create a legal defense fund and how to disclose all contributions to such a fund. There are legitimate reasons for which a candidate or elected official would want to establish a legal defense fund. I am not opposed to such a fund, however, there must be full disclosure about the purpose for which a fund is established and the contributions to such a fund. This is why I seek legislation regarding legal defense funds. My office did extensive research on how other jurisdictions treat legal defense funds, and we developed our proposed language by taking elements of various jurisdictions around the country that seem consistent with the provisions governing campaign practices in Nevada. I propose adding a new section to NRS 294A that establishes an authority to set up legal defense funds. Assembly Bill 605 defines all contributions to a legal defense fund as defined in NRS 294A.

Section 10 of A.B. 605 establishes the purpose and use for which a fund may be established by a candidate or elected official. A separate fund may be created to defray legal costs incurred by the candidate or elected official's legal defense if he is the subject of one or more civil, criminal or administrative proceeding arising directly out of the conduct of a political campaign, electoral process or performance of his government activities and duties. Assembly Bill 605 further requires the candidate or elected official must register a legal defense fund with the Secretary of State's Office before soliciting or accepting any contributions to the fund. Registration must be accompanied by a statement of purpose which identifies the specific proceeding for the creation of the legal defense fund. The Secretary of State will review the statement of purpose to determine if the fund is being created in accordance with provisions in NRS 294A and a preponderance of the evidence suggests, but for his capacity as a candidate or elected official, the claim would not be asserted against him. Standards will establish if a claim arises because the individual is a candidate or elected official, if a legal defense fund can be established. In addition, the fund is required to be named as the individual's legal defense fund.

Section 11 of A.B. 605 requires a trustee, who has no direct authority over employees of the candidate or elected official, be named to manage the fund and contributions cannot be solicited from employees of the candidate, elected official or trustee. Section 13 limits the contributions to \$10,000 annually from the effective date of the fund's establishment. Section 14 requires quarterly contribution and expenditure reports and specifies the date reports are due. The type of information reported on the contribution and expense form is consistent with the information provided on our current campaign contribution and expense reports. Section 15 requires the fund be dissolved with the Secretary of State and all remaining funds must be disposed upon conclusion of legal claims. Section 16 specifies how to properly dispose of those funds. The specification is similar to language in NRS 294A with the exception of legal defense funds; excess contributions cannot be rolled over to political campaigns, committees, persons or groups advocating the passage or defeat of ballot questions. Section 22 subjects any fund established prior to the effective date of A.B. 605 to the provisions of this amendment and registration with the Secretary of State. Failure to comply with the provisions of this statute will result in the penalty provisions of NRS 294A.420.

SENATOR RAGGIO:

Does A.B. 605 require approval of any and all legal defense funds or only those arising out of claims or proceedings that relate to the campaign of the candidate or official duties or activities of a public officer?

MS. ERDOES:

Assembly Bill 605 applies to all legal defense funds established by public officers, but the approval of the Secretary of State is required only for those which relate to campaigns.

SENATOR BEERS:

Section 1, subsection 11 of A.B. 605 states that a public officer will not have a legal defense fund for the direct or indirect benefit of a public officer unless it complies with the provisions of sections 10 to 16. I agree this will apply to all legal defense funds as Ms. Erdoes said. You are requiring an acknowledgment from a candidate for this fund that he understands the limit. For campaign contributions, the law says you cannot give more than \$5,000 per election.

MR. GRIFFIN:

That is somewhat unique. The language was formulated by looking at various jurisdictions. Initially, I used the U.S. Congress as a template. Most jurisdictions do not have a problem with legal defense funds but want to regulate them. Because of this, most of them provide a registration period up front. The consistent mindset toward legal defense funds is you should not benefit in raising those funds because you are an officeholder. That is why an up-front disclosure is required.

SENATOR BEERS:

You are saying this is allowable for an investigation, claim or proceeding. What if a week before a campaign someone makes a charge against a candidate in the newspaper? Would that qualify?

MR. GRIFFIN:

Yes, that would qualify. Many legal proceedings occur long before any formal complaint or action is filed. Much damage can be done before you even see a court of law, which is why "claim" and/or "proceedings" is included in the definition for which funds can be raised.

SENATOR BEERS:

When we have challenges under initiative law for judicial intervention, they are directed to the First Judicial District. Assembly Bill 605 does not specify a district court unless it is in NRS 233B. Should we specify the district court?

MR. GRIFFIN:

That was not decided because the determination is best left to the Legislature. Sometimes, these claims can be quite specific in jurisdiction and nuance. The place where the claim is alleged may be better-suited to handle it.

SENATOR BEERS:

Are we erring by not specifying one way or the other?

MR. MILLER:

When we first wrote A.B. 605, we contemplated putting in the First Judicial District. Now it seems we should have it with some discretion. If you have a legal case filed in a rural area or district court familiar with the operative facts and circumstances, that court would be in the best position to judge under judicial review whether the statement of purpose is sufficient toward establishment of a legal defense fund as opposed to having another judge review the operative facts.

SENATOR BEERS:

Does NRS 233B offer any direction? If not, should we specify entitled to judicial review of the decision in the manner provided by NRS 233B in the jurisdiction of the candidate or public officer's choice?

MS. ERDOES:

If you are looking for direct jurisdiction to a specific court, you will not find that in NRS 233B. Usually, you have jurisdiction wherever specified depending on the circumstance of the case. If you want jurisdiction in the district in which the person filed, you should specify that.

SENATOR BEERS:

If we do not specify, existing rules of jurisdiction give a choice of the First Judicial District or where it happened.

SENATOR RAGGIO:

If an investigation is lodged against the Secretary of State and he needs to establish a legal defense fund, how does a person do that and to whom does that person go for approval?

MR. GRIFFIN:

In order for the Secretary of State to establish such a fund, he needs the judicial system to determine the reasons for establishing the fund.

SENATOR RAGGIO:

That should be covered in A.B. 605.

SENATOR DINA TITUS (Clark County Senatorial District No. 7):

Assembly Bill 605 is more detailed in how to create a legal defense fund than my bill which passed this House earlier this Session. My bill differs in that it has a blackout period for legal defense funds.

MS. ERDOES:

Senator Titus's bill has a blackout period which applies to the Lieutenant Governor, Governor and the elect of both positions. Assembly Bill 605 is broader in who it covers as well as the different requirements it submits.

SENATOR HORSFORD:

Other bills passed by this Committee have conflicting language, so why are we addressing this in Committee?

MS. ERDOES:

As the Legislative Counsel, NRS requires me to bring substantive conflicts to your attention. These are conflicts we do not know how to resolve on our own in codification. Senator Titus's bill goes in a completely different direction than A.B. 605 so we do not know what direction to take. We brought up Senator Titus's bill in order for Legislators to resolve this conflict.

SENATOR BEERS:

Section 13, subsection 4 of A.B. 605 makes willful violations a felony which is a step beyond anything we have done in campaign law thus far. This seems extreme to me. Is this something we should fix?

MS. ERDOES:

There are some other felonies in election laws. A Category E felony is an automatic suspension sentence. This would be a policy choice as to what the Legislature wants to do with this subject.

SENATOR BEERS:

Are there any felonies in campaign finance?

MR. MILLER:

Addressing this issue, NRS 294A.100 establishes solicitation of amounts exceeding contribution limits as a Category E felony. In addition, there is a litany of civil penalties as well.

SENATOR BEERS:

Would you have an objection to us bifurcating the penalty by having one piece apply to the action and a less-severe penalty apply to violations of reporting in section 14 of A.B. 605?

MR. MILLER:

That would be consistent with campaign statutes so we would not be opposed to that.

SENATOR HORSFORD:

Are we amending A.B. 605 by deleting section 18?

CHAIR CEGAVSKE:

No, we will amend A.B. 605 by deleting lines 13 through 18 on page 9.

SENATOR HORSFORD:

That will address the conflict. Is the Secretary of State comfortable with that amendment?

MR. MILLER:

That is a policy decision, and we are comfortable with any changes the Committee submits in that area.

MS. ERDOES:

An amendment will be required on Senator Titus's bill to remove the definition of legal defense fund because it is narrower than the definition in A.B. 605.

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SENATOR MATHEWS:

Senator Titus told me she is amendable to whatever staff thought appropriate.

CHAIR CEGAVSKE:

I close the hearing on A.B. 605 and open the hearing on A.B. 602.

ASSEMBLY BILL 602 (1st Reprint): Makes various changes to the state personnel system. (BDR 23-1148)

ASSEMBLYWOMAN MARILYN KIRKPATRICK (Assembly District No. 1):

Assembly Bill 602 was brought forward on behalf of the Assembly Government Affairs Committee. From the testimony my committee heard, some issues needed to be addressed concerning the amount of members involved in employment management. We proposed nine members and adjusted it down to five members.

ORAN MCMICHAEL (American Federation of State, County and Municipal Employees):

Section 1 of A.B. 602 changes the composition of the Employee-Management Committee to an odd number. Under current statute, the composition is three management members and three employee members. This arrangement has caused a number of conflicts whenever there is a tie in voting. Our amendment ([Exhibit D](#)) which we provided to the Committee will eliminate the potential for a tie. When a tie occurs in voting, there is no resolution to the grievance. Section 2 makes the chair of the Committee appointed by the Governor; our amendment removes this stipulation and has the chair of the Employee-Management Committee chosen by a majority vote of the members. [Exhibit D](#) then requests that section 3, subsection 7 be removed from the bill. Section 4 creates a system for appointment and terms of service with one appointment expiring in 2008 and a second set of appointments expiring in 2009.

DANNY COYLE (State of Nevada Employees Association, American Federation of State, County and Municipal Employees Retiree Chapter 4041):

It is essential to have an odd number of members on the Employee-Management Committee. As previously stated, a tie vote results in no resolution. Having the Governor appoint a neutral person as the odd member is crucial to a fair and equitable resolution to grievances brought before the Committee.

RONALD R. CUZZE (Nevada State Law Enforcement Officers' Association):

We are in favor of the odd number of Committee members as well as saving the state money. However, the problem is having only five members permanently assigned limits the Employee-Management Committee coordinator in getting meetings coordinated. The more members there are, the easier it is to hold Employee-Management Committee meetings. Our recommendation is to use retired state employees as Committee members and utilize teleconferencing for meetings.

KEVIN RANES (State of Nevada Employees Association, American Federation of State, County and Municipal Employees):

I recently had a grievance which the Employee-Management Committee heard. With a tie in my case, there would not have been a resolution. Assembly Bill 602 will help resolve many concerns I have as a state employee.

SHELLEY D. BLOTTER (Chief Personnel Manager, Technical Services, Department of Personnel):

Even with the proposed amendment removing section 3, subsection 7 of A.B. 602, the bill continues to be flawed. It tries to resolve a problem that occurs rarely. Assembly Bill 602 also sets up a system resulting in a fiscal impact that will cause greater difficulty for the administration of the Employee-Management Committee. However, we are not opposed to the reduction of Committee members proposed in section 1.

CHAIR CEGAVSKE:

You are not opposed to all of section 1?

MS. BLOTTER:

We are opposed to the bill as a whole, but if it were to pass, section 1 would not harm us.

SENATOR BEERS:

You just testified that creating an odd number of Committee members and changing the way they are appointed would negatively impact you. If it has a negative impact, why is section 1 acceptable?

MS. BLOTTER:

We are satisfied with the current composition of six committee members. Should you choose to accept this bill and reduce the number to five, we will not

have a distinct opposition. Having six Committee members makes them work together to come to a majority vote.

CHAIR CEGAUSKE:

The original fiscal note on this will be \$300,583.

MS. BLOTTER:

The original bill has a full-time Employee-Management Committee chair in a paid position. That is not a part of the first reprint of A.B. 602. However, the portion of the fiscal note dealing with transportation of the chair remains.

CHAIR CEGAUSKE:

That will be considerably less than the original fiscal note.

MS. BLOTTER:

We oppose reducing the number of alternates. We recommend retaining the same number of alternates currently available so staff has the ability to schedule as many hearings as possible. Assembly Bill 602 also provides for either a state employee appointment as chair or if there is no agreement, an arbitrator from the Federal Mediation and Conciliation Service (FMCS) will be appointed to that position. We are opposed to this provision. There will be a fiscal impact to using an arbitrator as well.

CHAIR CEGAUSKE:

The Committee received documentation of the Department of Personnel's position ([Exhibit E](#)) regarding A.B. 602.

MS. BLOTTER:

Assembly Bill 602 also limits the ability of the Governor to appoint the chair because only one employee name is recommended to the Governor as either the chair or one arbitrator. Additionally, we have concerns related to the use of an arbitrator from the FMCS. The proposed language indicates the arbitrator must be from Nevada. Three arbitrators on FMCS currently list Nevada as their primary address and only seven others list it as a secondary address. The average cost for an arbitrator is \$937 per day. Though negotiable, that is the confirmed going rate.

CHAIR CEGAUSKE:

Is that in state or out of state?

MS. BLOTTER:

The FMCS indicated that was the cost for Nevada.

CHAIR CEGAVSKE:

What is the out-of-state cost?

MS. BLOTTER:

I am unsure of that cost.

SENATOR HORSFORD:

Have you attempted to work out any of these concerns with the proponents of A.B. 602?

MS. BLOTTER:

We met on a number of occasions to discuss our concerns with the bill. It seems our differences are philosophical.

SENATOR HORSFORD:

This is a personnel issue. We should not micromanage issues of state government. In other committees, we ask people to settle their differences before they deal with us.

SENATOR RAGGIO:

This is not the first time this issue has been raised in the Legislature. It seems impractical to tell the Department of Personnel to settle this. You need to keep a balance between management and employees. Stalemates on the Employee-Management Committee have been minimal. It is unlikely two members on either side will agree on who to appoint as the tiebreaker. The Committee structure is efficient and has worked in the past.

MS. BLOTTER:

The Employee-Management Committee chair reviews all grievances, determines what previous decisions are relevant, discusses with staff the merits of the grievances, reviews any requests for subpoenas, reviews motions, grants and the final draft of decisions. The chair duties are quite extensive. Assembly Bill 602 does not specify a time period for the arbitrator to serve as a chair. Will the Governor then have the ability to select someone else, and how is the arbitrator removed? We also object to the time period with selection of new members starting as of July 1, as stated in section 4. If A.B. 602 is passed, we

ask a new Committee be appointed as of October 1. The way A.B. 602 stands, neither the Department of Personnel nor the Governor's Office can offer their support.

J. PAT GALLAGHER (Elko, Chair, Employee-Management Committee, Department of Personnel):

There are three steps a grievance takes before it reaches the Committee, which usually takes four months. The system is not perfect, and we would like to be more efficient. With regard to the structure of the Committee, we do our best to have an equal balance of three management and three employee representatives. Limiting the number of Committee members to five will create a burden. We have a difficult time now trying to reach a quorum.

CHAIR CEGAVSKE:

What is the average amount of time it takes for a grievance to reach the Committee?

MR. GALLAGHER:

I do not have that data with me today.

MS. BLOTTER:

The average is about three months.

CHAIR CEGAVSKE:

What are the steps a grievance takes?

MS. BLOTTER:

The first step is filing with the supervisor. From there, the grievance goes through another level of management before it ends up at the Department of Personnel level. Following this, the grievance goes to the Employee-Management Committee. Any time there is an extension at the lower levels prior to the Employee-Management Committee, both the employee and management must agree to the extension.

MR. GALLAGHER:

The Committee I chair has been fair and correct over the last two years. However, we sometimes render decisions employees may not like. In my eight years on the Committee, I only remember one tie.

SENATOR WIENER:

How many times has the Committee heard grievances with five members in your tenure?

MR. GALLAGHER:

I guess around less than 30 percent with five or less members.

GARY WOLFF (Nevada State Law Enforcement Association; Communications Workers of America Local 9111:

I understand the reasoning behind A.B. 602. I have been doing employee representation for many years. Employee-Management Committee members work hard to make sure the system is fair for both sides.

MR. MCMICHAEL:

We are not in favor of reducing the alternates as stated on page 1 of [Exhibit E](#). The reason we decided on five members is because it started out as seven. We reduced the seven to five in order to reduce the fiscal note.

CHAIR CEGAVSKE:

So this is not an issue for you?

MR. MCMICHAEL:

We are more interested in having an odd number of members. Page 1, Bullet 4 of [Exhibit E](#) mentions conflicts of interest that could occur with the Committee chair. There is a potential conflict of interest with the Committee members themselves. This is ingenuous to speak of a conflict of interest with strictly the chair. After all, Mr. Gallagher comes from the Department of Personnel. With regard to the last bullet on page 1 of [Exhibit E](#), we seek the ability to make a recommendation. The reason we wrote the FMCS into A.B. 602 is because they provide a service free of charge. The City of Las Vegas currently uses this system without charge. The potential for an arbitration charge is why we included language addressing a successor organization should the FMCS not be a viable operation. Page 2, Bullet 4 of [Exhibit E](#) speaks to the time frame of which a person will serve as chair. We wrote in a two-year time frame, which can be changed. Page 3, Bullet 1 of [Exhibit E](#) addresses the appointment of members by the Governor. The Governor can appoint all new members to the Committee; this is not new. With regard to the implementation date, we accept October 1. If we had the ability to negotiate personnel policies, the Legislature

would not have to micromanage departments. These personnel issues should not take up the time of the Legislature.

MR. COYLE:

The issue 30 years ago was the lack of precedence for the Committee. Today, the Committee can utilize previous decisions to help with its decision making. This is evidence our problems are quite different than back then.

SENATOR MATHEWS:

Did you always have an even number of members?

MR. COYLE:

It has always been six members.

SENATOR MATHEWS:

The Legislature has been hearing about this issue for the last 30 years. We need to do something about this before the situation worsens.

MR. CUZZE:

The average length of time given for a grievance is correct; however, I have had a few that took 11 months. Furthermore, the Attorney General's Office is getting more involved on the department level making it harder for employees. I agree with Senator Mathews, something needs to be done to avoid a tie.

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CHAIR CEGAVSKE:

If there is nothing else to come before this Committee, I adjourn the Senate Committee on Legislative Operations and Elections at 3:40 p.m.

RESPECTFULLY SUBMITTED:

Brian Campolieti,
Committee Secretary

APPROVED BY:

Senator Barbara K. Cegavske, Chair

DATE: _____