

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

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

The Senate Committee on Legislative Operations and Elections was called to order by Vice Chair William J. Raggio at 1:39 p.m. on Tuesday, May 15, 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 Warren B. Hardy II  
Senator Bob Beers  
Senator Bernice Mathews  
Senator Valerie Wiener  
Senator Steven A. Horsford

**GUEST LEGISLATORS PRESENT:**

Assemblyman John C. Carpenter, Assembly District No. 33

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Ned Reed, Deputy Attorney General, Office of the Attorney General  
Matt Griffin, Deputy for Elections, Office of the Secretary of State  
John L. Wagner, The Burke Consortium  
Janine Hansen, Nevada Eagle Forum  
Kristi Geiser, Campaign Finance Officer, Office of the Secretary of State  
Larry Lomax, Registrar of Voters, Elections, Clark County

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Lorne J. Malkiewich, Director, Legislative Counsel Bureau  
L. Patrick Hearn, Executive Director, Commission on Ethics

VICE CHAIR RAGGIO:

I open this meeting with Assembly Bill (A.B.) 516. Chair Cegavske is testifying in another committee and will be here shortly.

**ASSEMBLY BILL 516 (1st Reprint)**: Revises provisions governing the review of arguments advocating and opposing the approval of certain measures proposed by initiative or referendum. (BDR 24-522)

NED REED (Deputy Attorney General, Office of the Attorney General):

Assembly Bill 516 deals with initiative and referendum petitions and the process whereby committees are appointed to create descriptions of arguments for or against an initiative or referendum petition. Assembly Bill 516 eliminates the Attorney General from the process when an individual or committee proposes certain language rejected by the Secretary of State based on it being either false or libelous. Since the Attorney General is the legal counsel to the Secretary of State, the Attorney General should be eliminated from the review process. After the Secretary of State's review, the committee can appeal a rejection to the Attorney General's Office.

VICE CHAIR RAGGIO:

Is that on a statewide measure? Otherwise, if it is a local measure, is it sent to the local district attorney?

MR. REED:

That is correct. All A.B. 516 does is eliminate the Attorney General's Office from being the next step. Instead, the decision becomes the Secretary of State's. If his decision is challenged, it will go to the First Judicial District Court which will set a hearing within three days of getting the petition. The three-day requirement was language added by the Assembly at the request of the Secretary of State.

VICE CHAIR RAGGIO:

How often has this process been experienced by the Attorney General's Office?

MR. REED:

I do not have that information.

VICE CHAIR RAGGIO:

What is the reason for the Attorney General or local district attorney opting out of this process?

MR. REED:

It is primarily because of a potential conflict of interest where the Attorney General is the legal counsel to the Secretary of State. It is difficult for the Attorney General to fully represent the Secretary of State in that manner because of the process.

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

The Secretary of State supports A.B. 516. The process will almost always create a conflict because when we evaluate initiative petition language, we always do so by the advice of counsel.

JOHN L. WAGNER (The Burke Consortium):

I signed in as neutral on A.B. 516. However, I prefer to have the Attorney General continue to be involved in the process.

JANINE HANSEN (Nevada Eagle Forum):

Must we hire an attorney in order to go to the First Judicial District Court? How would people who volunteer their time find representation in court? I have heard that rural counties have a difficult time finding people to serve on these committees.

VICE CHAIR RAGGIO:

We will accept those as rhetorical questions. I close the hearing on A.B. 516 and open the hearing on A.B. 517.

**ASSEMBLY BILL 517 (1st Reprint)**: Makes various changes to election laws.  
(BDR 24-542)

MR. GRIFFIN:

Assembly Bill 517 was inherited by the Secretary of State. It eliminates various obsolete provisions with regard to punch card language from the *Nevada Revised Statutes* (NRS). Nevada is one of the few remaining states that continue to have punch card language included in statutes. The final subject this bill addresses relates to submission of petitions to the county clerk.

VICE CHAIR RAGGIO:

The first reprint of A.B. 517 adds new language in sections 2, 5, 6 and so on that a voter registration card does not provide proof of identity or residency. Secondly, it deletes a requirement that clerks mail sample ballots out no later than ten days before the start of early voting. It also leaves intact language requiring that the clerks must mail sample ballots before the start of early voting. It further clarifies the definition of a candidate to include any person who has received more than \$100 in campaign contributions regardless of whether the person has filed a declaration of candidacy or had their name appear on a ballot. Additionally, it provides that if documents concerning a petition are submitted to more than one clerk, all copies must be submitted on the same date.

MR. GRIFFIN:

There is also a proposed amendment ([Exhibit C](#)) which I provided to the Committee. The purpose of [Exhibit C](#) is to bring Nevada in compliance with the Uniformed and Overseas Citizens Absentee Voting Act standards. This compliance allows overseas registered voters to send a facsimile of their ballots back with protections and safeguards. Originally, A.B. 517 was rather complicated and addressed more issues to deal with than the Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments was comfortable.

VICE CHAIR RAGGIO:

It deletes the requirements that otherwise apply for the date of signing, a notice the envelope contains the official ballot and a warning that voting twice constitutes a crime as well as a warning that the voter must sign the envelope in his or her own handwriting, name the person authorized to return the absentee ballot and the relationship of that person to the signer. Those requirements are no longer required under [Exhibit C](#). Is that correct?

MR. GRIFFIN:

That is correct. Those requirements on ballots give additional reasons for registrars not to accept them on a technicality.

VICE CHAIR RAGGIO:

Is this required to bring Nevada into conformity?

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MR. GRIFFIN:

That is required under federal law, not state law.

SENATOR HORSFORD:

What is the reason for a person being determined as a candidate even if they do not file a declaration of candidacy in section 54 of A.B. 517?

KRISTI GEISER (Campaign Finance Officer, Office of the Secretary of State):

This clarifies that even if you do not declare as a candidate during the filing period, you will be considered a candidate because you have raised funds. That money raised before a declaration of candidacy must be reported because it can be used while campaigning.

SENATOR HORSFORD:

You are agreeing to meet other conditions as well. Will those be met before filing for candidacy? I understand you are addressing the beginning of the process for campaigning before the actual filing period starts. Once the period starts, you fill out a form and there are many conditions you must agree to meet. This will not occur under section 54 of A.B. 517.

MR. GRIFFIN:

I do not know how to address people who have raised the money and not filed without initiating some type of reporting process at the front end. You are correct, it does not address that.

VICE CHAIR RAGGIO:

Is the purpose so that people will be required to comply with a reporting matter even though he or she has not filed a declaration?

MR. GRIFFIN:

Yes, that is the purpose.

CHAIR CEGAUSKE:

I received an e-mail from a staff attorney from the American Civil Liberties Union of Nevada ([Exhibit D](#)) opposing A.B. 517.

LARRY LOMAX (Registrar of Voters, Elections, Clark County):

We support A.B. 517 as well as [Exhibit C](#).

MR. WAGNER:

This bill has many problems. If I gave a person \$101, would that make that person a candidate? Another area that needs an amendment is section 55, subsection 5 of A.B. 517. At the end of the subsection I want to add "by a person authorized by the petition chair or committee." The way it reads now, the first person who files petitions stops all other petitions. That kills the petition right there. It needs to be clarified that the person who submits these petitions should be authorized to submit them.

MS. HANSEN:

I am concerned about submitting petitions on the same day. Previously, we had difficulty in Pershing County because we only had one person helping us. I am disturbed by the statement at the bottom of page 2 in [Exhibit C](#) addressing the oath of a voter. I received a \$15,000 fine on my campaign reporting form because I crossed out the affirmation and replaced it with an oath to call God as a witness. Article 1, section 4 of the *Constitution of the State of Nevada* states:

The free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed in this State, and no person shall be rendered incompetent to be a witness on account of his opinions on matters of his religious belief, but the liberty of conscience hereby secured ... .

I am concerned about people who might have a similar religious concern in signing this who want to sign it and say it is true and correct but with a religious oath. The law is being construed to deny the right of religious conscience and the right to swear an oath in a religious way rather than an affirmation.

CHAIR CEGAVSKE:

Most of the oaths we take say "under God," or there is a reference. Is it common to have the language this way?

BRENDA J. ERDOES (Legislative Counsel):

Many of the older oaths have mention of God in them and the newer ones seem to utilize an affirmation. The argument for affirmations is they are less objectionable to more people.

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CHAIR CEGAVSKE:

Do most states have a mixture of both affirmation and religious oath?

MS. ERDOES:

Many states have a mixture.

CHAIR CEGAVSKE:

Is there a reason for not wanting to have a religious context for the oath?

MR. GRIFFIN:

We just take the law as written. It does not differentiate between swearing before God or not before God. It also says that if the forms are not submitted in the way the Legislature prescribes, they are considered non-filed.

CHAIR CEGAVSKE:

Does the Help America Vote Act of 2002 (HAVA) give any guidelines for what you can or cannot have as a declaration?

MR. GRIFFIN:

No, HAVA deals with voting.

MR. REED:

"Under God" has been taken out of virtually every oath. The only oath it is left in is the oath of office.

MR. GRIFFIN:

With regard to submission of initiatives to the county clerk, existing law states it should be submitted at the same time which becomes burdensome for the clerks. If you submit at 12:55 p.m. in Clark County, you are not required to submit at 12:55 p.m. in Washoe County; we just want same-day submission.

CHAIR CEGAVSKE:

I close the hearing on A.B. 517 and open the hearing on A.B. 593.

**ASSEMBLY BILL 593 (1st Reprint)**: Makes various changes relating to the Legislature and the Legislative Counsel Bureau. (BDR 17-1081)

LORNE J. MALKIEWICH (Director, Legislative Counsel Bureau):

In the past, we went to the Legislative Commission with various changes to NRS relating to the Legislature and the Legislative Counsel Bureau (LCB). Over the past few sessions, we asked the Commission for the authority to request a single bill, put all miscellaneous changes in it and then the bill becomes entirely severable. If you do not want any of the changes, you can take them out and the rest of the bill stands on its own. In section 1 of A.B. 593, there is a fee for the bill service in NRS of \$150. The first reprint proposes to take that out and replace it with a fee "established by the Director of the Legislative Counsel Bureau." We have been trying to take specific numbers out of NRS and set it as a reasonable amount. Section 2 takes out subsection 1 requiring the Legislative Counsel to represent a Legislator before the Commission on Ethics. Section 2 leaves in the existing subsection 2 which will now become subsection 1. It provides that the Commission on Ethics or the Chair can continue to direct the Legislative Counsel to represent someone. The reason for this is because the Legislative Counsel has conflicts when advising 63 Legislators. If any charges are serious enough to get past the preliminary hearing stage, a person needs a real defense lawyer. The sanctions for ethics violations can be strict, and the Legislative Counsel is not trained to deal with this.

Section 3 of A.B. 593 concerns the Governor's portrait. For some reason, the Legislative Commission has substantial duties in this area. This would transfer it to the Director of the Department of Cultural Affairs. Section 4 changes the description of the LCB grounds by first adding a provision covering some of the State Printing Office site. In addition, the key provision is on page 4, line 39: "Title to the property described in this subsection must be held in the name of the Legislature of the State of Nevada." When we started working on the State Printing Office, we were trying to get some clear title to this and found the title to all the property is held in the name of the State of Nevada. It is only assigned to the Legislature for use. Section 4.5 was added by amendment in the other House. This is a provision that the Legislature is not required to use the services of the State Public Works Board with respect to architectural and engineering services. It does not exempt the Legislature from all of NRS 341. This makes the exemption apply to all of NRS 341 and leaves in the provision that says the Legislature may choose to make use of those services.

Section 5 concerns the Nevada Silver Haired Legislative Forum. When we did our reapportionment bills, we did not adjust the districts so there is reference to a nonexistent district. This and the transitory provision fix that as well as the



problem with staggered terms. Staggered terms means there will be an appointment every year.

Section 6 concerns A.B. No. 462 of the 73rd Session which gave Legislators a pay increase from \$130 per day to \$137.90. This clarifies the bill was totally perspective. The increases in compensation only apply to cost-of-living adjustments from that day forward; otherwise, it would have reached back two years and got additional increases for some of the Senators. Section 7 is the second half of the State Land Registrar provision saying the title needs to be in the name of the Legislature. Section 8 is the other half of the Nevada Silver Haired Legislative Forum provision clarifying which members are getting one-year terms and which members are getting two-year terms.

I provided an amendment to A.B. 593 to the Committee ([Exhibit E](#)). The purpose of [Exhibit E](#) is to answer questions dealing with senior staff who may be leaving and what we can do to encourage people to stay with LCB. We looked at something that will be a benefit affecting senior employees more than newer ones. [Exhibit E](#) is an attempt to provide more of a benefit for senior employees. It is operating under the assumption that during session, we have additional duties which require them to work substantially more than during the interim. People who are not professional employees receive time and a half for overtime worked. The professional employees will be required to work 300 extra hours during the session year. The first 300 hours worked, they will not receive additional pay, but that will be considered as compensation for the purpose of retirement. For most of their career, all they will be doing is making contributions to the retirement system. However, when they retire, this additional compensation will be included. It is capped across the board by position and will be set at the actual amount of hours they work. This will provide an incentive for senior employees to stay for an additional session so they get the benefit of those hours during session. The hours, by classification, will need to be approved by the Legislative Commission. The proposed section 9 in [Exhibit E](#) is a partial retroactivity. This will allow a person who would have been entitled to this benefit this session to go back and make the entire retirement contribution to get that salary credited as compensation.

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CHAIR CEGAVSKE:

We, as Legislators, are fortunate and appreciate the LCB staff. They do a great job every year. I close the hearing on A.B. 593 and will reopen the hearing on A.B. 517.

**ASSEMBLY BILL 517 (1st Reprint)**: Makes various changes to election laws.  
(BDR 24-542)

ASSEMBLYMAN JOHN C. CARPENTER (Assembly District No. 33):

With regard to line 32 of A.B. 517, I interpreted that as clerks sending their ballots out the day before early voting begins.

CHAIR CEGAVSKE:

Do you have a proposed amendment or suggestion?

ASSEMBLYMAN CARPENTER:

No, I do not. I would prefer talking to the clerks again. I think ten days is too early; they should decide what to do with this. Three or four days will be better.

MR. LOMAX:

It is impossible for us to get sample ballots out ten days before the beginning of early voting. Early voting begins 17 days prior to Election Day. The close of registration is currently 31 days. Clark County had 27,000 people register in the last week during the 2004 election. It takes a minimum of three days to get all that data entered into the system. Additionally, it takes a week to get the sample ballots addressed and labeled. We make every effort to have the sample ballots delivered by the Thursday before the Saturday of early voting.

MR. GRIFFIN:

In our bill, we originally had the ten-day requirement, and the clerks indicated to me it is not feasible.

CHAIR CEGAVSKE:

Can you work up some language more amendable to the clerks?

ASSEMBLYMAN CARPENTER:

Yes, I will do that.

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CHAIR CEGAVSKE:

I close the hearing on A.B. 517 and open the work session on A.B. 80 (Exhibit F, original is on file in the Research Library). Exhibit F is provided for Committee members for all the bills we process today.

**ASSEMBLY BILL 80 (1st Reprint)**: Requires certain business entities that engage in certain political activities to register with the Secretary of State. (BDR 24-170)

MICHELLE L. VAN GEEL (Committee Policy Analyst):

Assembly Bill 80 requires certain business entities that engage in certain political activities to register with the Secretary of State. This bill was brought forward by the Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments. Based on the concerns discussed by the Committee, the proposed amendment is to amend section 2 of the bill to add a second exception for business entities that disclose the business purpose for which the entity is formed.

CHAIR CEGAVSKE:

I will accept a motion on A.B. 80.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED A.B. 80.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CEGAVSKE:

I close the hearing on A.B. 80 and open the hearing on A.B. 142.

**ASSEMBLY BILL 142 (1st Reprint)**: Makes various changes concerning ethics in government. (BDR 23-169)

MS. VAN GEEL:

Assembly Bill 142 requires newly elected or appointed public officers and lobbyists to complete a course on ethics. The bill increases penalties for willful

violations of certain provisions concerning ethics in government. Assembly Bill 142 also sets forth provisions for persons lobbying the Executive Branch of the Nevada State Government. All proposed amendments for A.B. 142 are listed in [Exhibit F](#).

CHAIR CEGAVSKE:

When we first talked about this, we were looking at the Commission on Ethics working with the LCB in implementing the training of newly elected officials. We agreed there would not be a need to charge a fee unless there is something additional.

SENATOR HARDY:

Will the ethics course for lobbyists cover the filing requirements and what is considered a gift? Most violations we see occur because people misunderstand the law. Most of the time, violations are committed without intent.

L. PATRICK HEARN (Executive Director, Commission on Ethics):

I certainly anticipate training will cover all those things mentioned.

SENATOR HARDY:

Can we make this course available to the general public as well? We need to establish a record that any member of the public interested in attending has the right to attend.

CHAIR CEGAVSKE:

The amendment we are addressing suggests moving sections 8 through 31 of A.B. 142 into A.B. 335.

**ASSEMBLY BILL 335 (1st Reprint)**: Makes various changes related to public office. (BDR 24-1195)

SENATOR BEERS:

Is one punished for not attending this course?

CHAIR CEGAVSKE:

We decided a person will fail if they receive a fine.

SENATOR BEERS:

Will a legislative lobbyist have to take this course every two years?

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CHAIR CEGAVSKE:

Yes, because the ethics can change over time.

SENATOR BEERS:

Will this have a fiscal note?

CHAIR CEGAVSKE:

According to our legal staff, there will not be a fiscal note because the training is done by LCB every two years.

SENATOR BEERS:

Are we processing this bill under the assumption it will not create any additional work for the Commission on Ethics?

CHAIR CEGAVSKE:

That is why we added language to allow the Commission on Ethics to charge a fee to cover the cost of providing ethics training. You will find that in [Exhibit F](#).

SENATOR MATHEWS:

I need more clarification on the penalty if people do not attend these ethics classes.

SENATOR HARDY:

Assembly Bill 142 does not require the Commission on Ethics to conduct the course, it only requires they develop the course. In terms of the fiscal note, we are not putting any additional requirements on the Commission on Ethics.

SENATOR HORSFORD:

I am uncomfortable with the term "course on ethics." There is a difference between a course on being compliant with the laws as an elected official or lobbyist and a course on ethics. I want to change the terminology of course on ethics. We are not teaching people to do what is right; we are teaching them to do what the law requires.

Ms. ERDOES:

We can work to provide alternative terminology.

SENATOR RAGGIO:

I am still concerned with regard to the cost of this course and how it will be provided. It is unclear to me when you say the course will be developed by the Commission on Ethics and there will be no cost to provide it. Additionally, the LCB will conduct this for a large number of people. The term public officer is broad; I am not sure what that includes. I have been told teachers are public officers. Who will pay LCB for conducting this course?

MS. ERDOES:

A public officer has the same definition of anyone who needs to file a financial disclosure form. With regard to the cost of the course, the amendment in [Exhibit F](#) adds language to A.B. 142 allowing the Commission on Ethics to charge a fee to cover the cost of providing ethics training.

SENATOR RAGGIO:

It is assumed there will be some cost or no cost to provide ethics training. Do you contemplate implementing it with or without a fee?

MR. HEARN:

We contemplate there will be some cost inherent in the development of the course. We had a suggestion from the Assembly to create an online Internet-based training medium. We anticipate that will be a viable way of implementing training. We have approximated a cost of \$25 per person for each training session they take.

SENATOR HARDY:

I came from the lobbying ranks and I can tell you their obligations to the law, in terms of ethics, are well adhered to because the penalty is drastic. We need to do all we can to advocate for the availability of this training for people who want to take it. However, mandating the training seems extreme. This goes for Legislators as well.

SENATOR BEERS:

Given there is no enforcement or penalty for violating this mandate and the fact the mandate is almost universally adhered to already, the only impact of the bill is to set up a new fee.

SENATOR MATHEWS:

If there is a fee on this bill, why was it not referred to the Senate Finance Committee?

CHAIR CEGAVSKE:

The fiscal notes in [Exhibit F](#) are for the first revised revision. If the new proposed amendments heard here today are applied to A.B. 142, the fiscal note becomes nonexistent.

SENATOR MATHEWS:

People will be charged \$25 for each course if we give them the authority to charge it. What will be done for unpaid lobbyists? Will they have to pay as well?

SENATOR RAGGIO:

Several hundred people will have to take this course. This will require funding and additional fees as we have heard. I do not want to pass something that may later become a financial burden for the state.

SENATOR HORSFORD:

We need to standardize the process. I agree with Senator Hardy we do not have an egregious problem, but we need to have a process in place in order to prevent problems in the future. I do not understand why elected officials will be charged to do something that is a part of their job. I do not think there should be a charge for elected officials to take this course. However, lobbyists should be required to pay.

CHAIR CEGAVSKE:

What if we require the training and have the Commission on Ethics design it? Following this, the Commission on Ethics can come before this Committee next Legislative Session and let us know if they need to charge for the course.

SENATOR MATHEWS:

If there is going to be a course, how long will it be and how much will it cost? I am not concerned how that will affect me because I always try to do the right thing. If people are asked to respond to this and they do not, what will be done to them? I am concerned about people who may not afford this course.

SENATOR HARDY:

I would like to know how many lobbyists have been suspended or had their credentials revoked for violating ethics laws? Everyone is speaking about lobbyists without recognizing that we are a part of the process that causes someone to do something unethical. If we mandate training, I will support it for elected officials. The right to petition your government is essential and to raise additional barriers will keep the people out of the process. We need to realize that we are the reason lobbyists are here.

SENATOR RAGGIO:

I will vote no on all the amendments in [Exhibit F](#) unless there is the authority to allow the Commission on Ethics to charge a fee. They indicated a fee will be required to provide this training. I want to be fiscally responsible.

CHAIR CEGAVSKE:

We all agree to removing sections 8 through 31 from [A.B. 142](#) and putting them in [A.B. 335](#).

SENATOR HARDY:

I move to amend and do pass as amended [A.B. 142](#) by placing sections 8 through 31 into [A.B. 335](#) and retaining section 1, subsection 1, which will read:

Each public officer who is required to file a statement of financial disclosure pursuant to NRS 281 shall, within 6 months after his initial election or appointment to his office, complete a course on ethics laws in government that is developed by the Commission on Ethics.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED [A.B. 142](#).

MR. HEARN:

Our view was the fee will be charged for training lobbyists and Executive Branch lobbyists. It was never our intent to charge public officers or employees. Having lobbyists train can be an asset to Legislators.

SENATOR HARDY:

We should send a letter from this Committee to the Commission on Ethics encouraging them to develop a program with a fee for lobbyists.



SENATOR MATHEWS:

I noticed the bill says "elected official" or "appointed public officials." Does that refer to all people whom the Governor appoints as well as those elected? Mr. Hearn stated elected officials will not pay the fee as well as state employees.

MR. HEARN:

That is correct.

SENATOR MATHEWS:

What about appointed officials? They are not state employees.

MR. HEARN:

We do not anticipate that any public officers or public employees at any level will be charged a fee.

SENATOR RAGGIO:

If it were limited to you providing a course on ethics laws to only the designated public officers, are you assuring us you can do that with the funding you have without charging any additional fee?

MR. HEARN:

We can provide the training without additional fees.

SENATOR RAGGIO:

Too often I have had agencies return and say, "You made us do this, but you did not provide the funding." I want to make sure this will not happen.

MR. HEARN:

I understand.

SENATOR HORSFORD:

What does the Commission on Ethics do with the funds you receive from people who violate existing law?

MR. HEARN:

That gets turned over to the General Fund; it is not turned over to the Commission on Ethics.

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SENATOR HORSFORD:  
Is someone paying for these courses?

MR. HEARN:  
Yes, through the local cost assessment from local governments. However, the penalty revenue the Commission on Ethics imposes is nominal.

SENATOR HORSFORD SECONDED THE MOTION.

SENATOR WIENER:  
Do we need to keep section 32 of A.B. 142?

SENATOR HARDY:  
We will not need it because my amendment will not include lobbyists in the bill. However, we will retain the first sentence of section 32: "The provisions of section 1 of this act do not apply to any public officer elected or appointed to his office before October 1, 2007."

SENATOR BEERS:  
How does this differ from existing law?

SENATOR HARDY:  
My motion requires public officials to take the course within six months of their election or appointment. Currently, the course is optional. We are also authorizing the Commission on Ethics to create another course for the general public which requires a fee.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CEGAVSKE:  
I close the hearing on A.B. 142 and open the hearing on A.B. 143.

**ASSEMBLY BILL 143 (1st Reprint)**: Revises provisions relating to the Commission on Ethics. (BDR 23-855)

MS. VAN GEEL:

Assembly Bill 143 requires the Commission on Ethics to render an opinion within 45 days after receiving a request from a public officer to interpret and apply statutory ethical standards to the public officer's past, present or future conduct. The Commission on Ethics provided an amendment to the bill located within [Exhibit F](#). The first proposed change to A.B. 143 will change the number of days for holding a hearing and rendering an opinion from 30 days to 60 days. The next proposed change will extend the time period for holding a hearing after notice is given from 10 days to 30 days.

SENATOR BEERS:

Is this a section of law where elected officials can ask the Commission on Ethics for an opinion on past, present or future activities?

CHAIR CEGAVSKE:

That is correct.

SENATOR BEERS:

This is why the Commission on Ethics was established and this should be its highest priority, rather than being adjunct to political campaigning. I do not approve of having a 45-day delay in A.B. 143. We need to have answers for these issues quickly. I reject this part of the amendment.

SENATOR RAGGIO:

What is the current requirement to render an opinion? Is there a time limit?

MR. HEARN:

No, there is no time limit.

SENATOR BEERS:

I agree with Senator Raggio; however, there should be some reasonable amount of time to get that opinion. Forty-five days may be too long.

CHAIR CEGAVSKE:

Do you have a different number of days to request?

MR. HEARN:

No, I do not. Forty-five days is the minimum/maximum under which we could do it. The Commission on Ethics meets routinely once a month. We never know

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when an opinion request will arrive. For example, if a request came in the middle of a meeting, we would have to have 45 days because our general counsel is tied up with other duties.

CHAIR CEGAVSKE:  
What is the current time line?

MR. HEARN:  
We are running at about 45 days.

SENATOR RAGGIO:  
The language should say the Commission on Ethics will render an opinion as soon as practicable or within 45 days.

SENATOR BEERS:  
I agree with Senator Raggio, but I disagree with giving them 45 days.

SENATOR RAGGIO:  
But the Commission on Ethics only meets once a month. We need some reasonable time limit for the Commission on Ethics to render an opinion.

SENATOR BEERS:  
What about "as soon as practicable or within five days?"

SENATOR HARDY:  
What if we say no later than the next meeting?

MR. HEARN:  
It is impossible to have something on our agenda that soon. I favor Senator Raggio's suggestion for the amendment.

CHAIR CEGAVSKE:  
The next part of the amendment changes the Commission on Ethic's investigation deadline from 45 days to 120 days. The issues addressed to me have been from those running for office who have been accused of something and the media advertises it for 45 days. Do they have to drop an ethics complaint if it is not acted on in 45 days?

MS. ERDOES:

You can add a provision saying they can extend a hearing if they need to.

SENATOR HARDY:

What is the status of investigations? Must there be reasonable cause to proceed with an investigation? One hundred and twenty days is reasonable for an investigation as long as we determine there is reasonable cause to proceed.

SENATOR RAGGIO:

This is a situation where a public officer is the subject of a complaint filed by a third party or the Commission on Ethics. The public officer, against whom this charge has been leveled, is out there "twisting in the wind." Four months is too long to wait for a decision. Why is a month and a half insufficient?

MR. HEARN:

I agree with you. Forty-five days is a short time for the public officer or employee, who is the subject of the complaint, to respond to the allegations.

SENATOR RAGGIO:

I agree. The public officer needs some time to consult with counsel. What can you suggest less than four months? Can three months work?

MR. HEARN:

I prefer four months but will accept three months as an alternative.

MS. ERDOES:

You can add a provision specifying if the Commission on Ethics determines good cause existed to extend the 45 days, it could be done. However, I suggest the Commission on Ethics should determine any extensions because you will probably end up in court trying to determine who decides that.

SENATOR MATHEWS:

The public always sees any extension as a bad thing or as incrimination against the accused. That is a concern to me.

SENATOR RAGGIO:

I suggest 90 days rather than 120 days.

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SENATOR MATHEWS:  
I suggest 60 days.

CHAIR CEGAVSKE:  
The next part of the amendment is in section 1, subsection 8 of A.B. 143. This deals with who files a complaint and gets the information. Are they the only ones who receive that? Does the person who is the object of the complaint get it as well?

MR. HEARN:  
Yes, the person complained about receives copies of that complaint and all supporting documentation provided to the Commission on Ethics.

CHAIR CEGAVSKE:  
Why do you want the complaint filer to receive the information as well?

MR. HEARN:  
Assembly Bill 143 is not the Commission on Ethics' bill so I cannot answer that.

SENATOR BEERS:  
The mechanism for someone else to complain about the conduct of a public official to the Commission on Ethics, instead of to the Federal Bureau of Investigation, appears to have been used most often to harass candidates around election time. Perhaps we should prohibit these kinds of complaints from being filed after the sign-up period for candidacy has expired.

SENATOR HARDY:  
The Commission on Ethics probably endeavors to not consider any of the political circumstances surrounding the submission of the complaint. Can we ask the Commission on Ethics to consider using precedent in determining the validity of a complaint?

SENATOR BEERS:  
I am concerned because we appear to be moving the wrong way. The Commission on Ethics' amendments move everything the wrong way. If we are going to have this as an alternative to going to law enforcement authorities, the process must become less bureaucratic and more responsive.

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SENATOR MATHEWS:

We will continue to have the law regarding these issues if we indefinitely postpone this bill.

CHAIR CEGAVSKE:

That law is in NRS 281.511.

SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 143.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

SENATOR RAGGIO:

I reserve my right to vote otherwise on the Senate Floor.

SENATOR BEERS:

I reserve my right as well.

SENATOR MATHEWS:

I reserve my right as well.

CHAIR CEGAVSKE:

I close the hearing on A.B. 143 and will accept a motion on A.B. 593.

**ASSEMBLY BILL 593 (1st Reprint)**: Makes various changes relating to the Legislature and the Legislative Counsel Bureau. (BDR 17-1081)

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 593.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CEGAVSKE:

I close the hearing on A.B. 593 and will accept a motion on A.B. 516.

**ASSEMBLY BILL 516 (1st Reprint)**: Revises provisions governing the review of arguments advocating and opposing the approval of certain measures proposed by initiative or referendum. (BDR 24-522)

SENATOR RAGGIO MOVED TO DO PASS A.B. 516.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CEGAVSKE:

I close the hearing on A.B. 516 and will accept a motion on A.B. 342. There is one proposed amendment which is on page 23 of Exhibit F.

**ASSEMBLY BILL 342 (1st Reprint)**: Makes various changes to the process of casting a mailing ballot in mailing precincts. (BDR 24-689)

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED A.B. 342.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

SENATOR HARDY:

I reserve my right to change my vote on the Senate Floor regarding A.B. 342.



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CHAIR CEGAVSKE:

I close the hearing on A.B. 342 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)

MS. VAN GEEL:

Assembly Bill 559 authorizes the Governor to designate a temporary replacement if the State Controller or State Treasurer becomes temporarily incapacitated. There is one proposed amendment on page 24 of Exhibit F.

SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 559.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS HORSFORD, MATHEWS, RAGGIO  
AND WIENER VOTED NO.)

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CHAIR CEGAVSKE:

If there is nothing else to come before this Committee, I adjourn the Senate Committee on Legislative Operation and Elections at 4:10 p.m.

RESPECTFULLY SUBMITTED:

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Brian Campolieti,  
Committee Secretary

APPROVED BY:

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Senator Barbara K. Cegavske, Chair

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