

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

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

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara K. Cegavske at 1:33 p.m. on Thursday, February 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:

Senator Joseph J. Heck, Clark County Senatorial District No. 5

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Michelle L. Van Geel, Committee Policy Analyst
Josh Martinmaas, Committee Secretary

OTHERS PRESENT:

Herbert E. Randall, Ed.D., Clark County Senatorial District No. 5, Nevada Silver
Haired Legislative Forum
Sally Ramm, Elder Rights Attorney, Office of Specialist for the Rights of Elderly
Persons, Aging Services Division, Department of Health and Human
Services
Kathleen Buchanan, Public Guardian, Clark County

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Susan Swenson, Public Guardian, Carson City
John O'Conner
Marilyn O'Conner

CHAIR CEGAVSKE:

We now have a quorum; I will open the Legislative Operations and Elections Committee meeting.

SENATOR JOSEPH J. HECK (Clark County Senatorial District No. 5):

Each member of the Nevada Silver Haired Legislative Forum (NSHLF) was appointed by a Senator and told to see their appointing Senator should they need legislative action. In that spirit, Bill Draft Request (BDR) R-386 was presented to the floor through my appointee, Dr. Herb Randall. Senate Concurrent Resolution (S.C.R.) 4 is the result of that request.

SENATE CONCURRENT RESOLUTION 4: Directs the Legislative Commission to conduct an interim study concerning guardianships for adults. (BDR R-386)

We are all familiar with the population growth in the State of Nevada. Among the fastest-growing segments of our population are seniors over the age of 65. As this population grows, so will the number of seniors who develop incapacitating medical conditions and require the assistance of a guardian. However, in appointing guardians, courts may remove certain rights of the senior. The study is intended to ensure the protections and rights of our seniors in their time of need. Here today is Sally Ramm, Elder Rights Attorney and Dr. Randall. I will let them present their testimony.

HERBERT E. RANDALL (Ed.D., Clark County Senatorial District No. 5, Nevada Silver Haired Legislative Forum):

The NSHLF is required by law to submit a report containing recommendations for legislative action to the Legislative Commission and the Governor before July of each even-numbered year. Recommendation 5 of the 2005-2006 report is to create a legislative study of Nevada's guardianship system for adults that identifies and recommends improvements and reforms. This brings concerns statewide—not just to the north or south. Ms. Ramm is available to give testimony; she testified before the NSHLF earlier with a compelling case.

Based on research, we could find no prior Legislative Commission studies done on this subject. In 1952, there was a study about housing for the aged; in 2001, there was a long-term care study, but nothing could be found about a guardianship system for adults. A study definitely needs to be done as good public policy for all Nevadans, not just seniors. The NSHLF fully supports S.C.R. 4. We thank this Committee, Senator Heck and Assemblywoman Kathy McClain for their interest and efforts to bring this study to fruition.

CHAIR CEGAVSKE:

When you were discussing this issue, was a bill draft request considered right away? Did you think it needed an in-depth study?

MR. RANDALL:

Based on information available in discussions, we thought a study should be done to identify things needing correction, improvement or reform.

CHAIR CEGAVSKE:

You did not have any suggestions? A concern has arisen and everybody is discussing those issues, but you do not have a plan put together? Because I was not in those meetings, I want to understand what the Forum was thinking.

MR. RANDALL:

As Ms. Ramm will testify, things that have happened cause people great concern. We do not know anybody who can make a specific recommendation for change or reform. We think a study needs to be done first.

SALLY RAMM (Elder Rights Attorney, Office of Specialist for the Rights of Elderly Persons, Aging Services Division, Department of Health and Human Services):

I have prepared testimony ([Exhibit C](#)).

SENATOR MATHEWS:

I have a bill drafted for this very issue. I would appreciate all of your input and participation in helping me draft my BDR. We need to do this now and not do a study.

Ms. RAMM:

The reason we and the NSHLF were thinking a study would be a good idea is because every facet of the guardianship law affects many different groups. A study would give us the opportunity to bring everyone to the table and review the laws from every angle. We could come up with a law that best serves the people.

SENATOR MATHEWS:

There are states that already have this law; we would not be the model state for guardianship law. We could look at laws that already exist. I do not know if we want to do a bill and a study, but my BDR is already in and going forth. I would love your input. We are not looking for a model law.

CHAIR CEGAVSKE:

I referred to that in the beginning; I did not know it was your bill. It is something we need to review. This Committee will decide which studies go forward. All bills presented to us will be evaluated and decisions made. We need to see if laws already exist.

SENATOR MATHEWS:

I want to make sure the people out there who need protection get protection as soon as possible. What you are doing is important.

CHAIR CEGAVSKE:

You want to properly plan. Could you talk about that comment? What would this study help? Is it for the state to plan further or for legal services?

Ms. RAMM:

It would probably encompass all of that. We have been dealing with people under guardianship who are sent out of state for care. We do not know how many, who they are or where they are. The only way we could find out is to have someone go through all the files of all courthouses. There is no central database for this information. We are trying to keep this from happening, but without statistical analysis, it becomes a problem.

CHAIR CEGAVSKE:

Several of us sit on the Human Resources and Education Committee and the Finance Committee that have briefings from the agencies. Placing people out of state is not part of any statistics?

Ms. RAMM:

We know how many people Medicaid places out of state because Medicaid keeps records. There are people out of state who are private pay, and we do not know who they are.

CHAIR CEGAVSKE:

How would that help if you knew about the private-pay people?

Ms. RAMM:

We are trying to attract a private party to Nevada to build a facility that takes care of people with behavioral problems. Statistics like that would help us get them more interested in coming to Nevada. There are people possibly under full guardianship who should only be under partial guardianship. If we had statistics on how many guardianships were plenary and how many were partial, we could see if training was needed. This would ensure people were under the proper guardianship. If we have areas doing no partial guardianships, then it is possible to see why and help train them to only do the guardianship needed.

CHAIR CEGAVSKE:

You talked about funding legal services. Do you have a cost estimate of a fiscal note for this bill?

Ms. RAMM:

I do not know; I do not remember saying funding legal services.

CHAIR CEGAVSKE:

You said something about funds for legal services in your prepared remarks.

Ms. RAMM:

Funds for legal services normally come from grants, counties or cities in the state. There are no state funds for legal services, especially in the senior law projects. I am not sure there would be a fiscal note.

SENATOR MATHEWS:

The study would not have a fiscal note; you would pay for the study out of your budget.

CHAIR CEGAVSKE:

No, that comes from the state. She was indicating funds needed for legal services. I was trying to clarify her comment.

SENATOR MATHEWS:

I did ask for a fiscal note for my bill. You will have a good note, Ms. Ramm, and you have to wait a year to get it.

CHAIR CEGAVSKE:

That is what I was trying to garner. Was the comment I heard something that would generate a fiscal note?

MS. RAMM:

There might be costs in the future associated with providing due process rights.

CHAIR CEGAVSKE:

I thought your presentation was about that. If the study is chosen to come forward, you have to determine the cost to provide those legal services for the guardianship issue.

KATHLEEN BUCHANAN (Public Guardian, Clark County):

I have suggestions for S.C.R. 4 shown in my handout ([Exhibit D](#)). Number 1: Instead of two members who are private attorneys, we would like to include three. The reasoning is: one for Clark County, one for Washoe County and one for any rural counties. Numbers 2 through 4: We would like to include three members apiece for the justices, county managers and public guardians for the same reason, to represent the north, south and rural areas. Finally, No. 7 talks about the expertise on technical and policy areas; it might be beneficial for the study to have one Nevada resident since it does engulf our laws on *Nevada Revised Statute* 159.

SUSAN SWENSON (Public Guardian, Carson City):

I represent the rural counties. I agree, if the study is going forward, those should be the changes.

CHAIR CEGAVSKE:

We will close the hearing on S.C.R. 4. I have two bill introductions. The first one is from the Nevada League of Cities and Municipalities.

BILL DRAFT REQUEST 17-481: Revises provisions relating to the effective date of certain legislation. (Later introduced as [Senate Bill 104](#).)

Bill Draft Request 17-481 concerns the Legislature revising effective dates of certain laws and joint resolutions.

BRENDA J. ERDOES (Legislative Counsel):

The bill provides if the Legislature passes a law or joint resolution—other than a constitutional amendment that requires a local government to enact or change an ordinance, then that bill would not become effective until October 1. This can be circumvented if the Legislature declares an emergency to public health or safety which requires an earlier effective date.

SENATOR RAGGIO MOVED TO INTRODUCE BDR 17-481.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CEGAVSKE:

Senator Dina Titus has requested a Senate joint resolution urging Congress to approve free trade agreements with Taiwan. Do I hear a motion?

SENATOR HARDY MOVED TO INITIATE A BILL DRAFT REQUEST URGING CONGRESS TO APPROVE FREE TRADE WITH TAIWAN.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CEGAVSKE:

We will move to public comment.

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JOHN O'CONNER:

The proposed interim study ([Exhibit E](#)) is about child custody, family law, judicial jurisdiction and everything about family law.

MARILYN O'CONNER:

We asked for this study because during the 2005 Legislative Session, a hearing was held on S.B. No. 109 of the 73rd Session; there were so many people, they had to end early. We did not get the legislation we wanted. With an interim study committee, we would get more information into the record so the Legislature could decide what kind of legislation we need.

SENATOR RAGGIO:

There is a lot in here. I suggest we accept this and make a decision at a future date.

CHAIR CEGAVSKE:

I was not going to take a vote today because we did not have time to look at this proposed study. This meeting is adjourned at 2:02 p.m.

RESPECTFULLY SUBMITTED:

Josh Martinmaas,
Committee Secretary

APPROVED BY:

Senator Barbara K. Cegavske, Chair

DATE: _____