

ASSEMBLY RESOLUTION NO. 10—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

MAY 20, 2009

Read and Adopted

SUMMARY—Expresses and explains the public policy governing Rule No. 23 of the Standing Rules of the Assembly for the 75th Session of the Legislature. (BDR R-1325)

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

ASSEMBLY RESOLUTION—Expressing and explaining the public policy governing Rule No. 23 of the Standing Rules of the Assembly for the 75th Session of the Legislature.

1 WHEREAS, It is a well-established principle of parliamentary
2 practice that every member of the Legislature has a duty to vote
3 unless prohibited or excused by the rules of the House (*Mason's*
4 *Manual of Legislative Procedure* §§ 521 & 522 (2000) (*Mason's*
5 *Manual*); Luther S. Cushing, *Elements of the Law & Practice of*
6 *Legislative Assemblies* §§ 1789-91 (1856) (*Cushing's Legislative*
7 *Assemblies*)); and

8 WHEREAS, Rule No. 23 of the Standing Rules of the Assembly
9 for the 75th Session of the Legislature provides that in determining
10 whether a Legislator has a conflict of interest, the Legislator should
11 consider whether the independence of judgment of a reasonable
12 person in his position upon the matter in question would be
13 materially affected by his acceptance of a gift or loan, his private
14 economic interest or his commitment to a member of his household
15 or his immediate family; and

16 WHEREAS, Rule No. 23 provides that if a Legislator knows he
17 has a conflict of interest, the Legislator shall make a general
18 disclosure of the conflict of interest on the record in a meeting of a
19 committee or on the floor of the Assembly, as applicable; and

20 WHEREAS, Rule No. 23 provides that in determining whether to
21 abstain from voting upon or advocating or opposing a matter



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1 concerning which a Legislator has a conflict of interest, the
2 Legislator should consider whether the conflict impedes his
3 independence of judgment and whether his interest is greater than
4 the interests of an entire class of persons similarly situated; and

5 WHEREAS, Rule No. 23 must be interpreted and applied in light
6 of well-established principles of parliamentary practice that have
7 been shaped, developed and followed by national and state
8 legislatures for hundreds of years; and

9 WHEREAS, Rule No. 100 of the Standing Rules of the Assembly
10 for the 75th Session of the Legislature provides that sources of
11 parliamentary authority in the Assembly include *Mason's Manual of*
12 *Legislative Procedure*; and

13 WHEREAS, Section 522 of *Mason's Manual* provides that "[t]he
14 right of members to represent their constituencies is of such major
15 importance that members should be barred from voting on matters
16 of direct personal interest only in clear cases and when the matter is
17 particularly personal"; and

18 WHEREAS, Section 1791 of *Cushing's Legislative Assemblies*
19 provides that "[i]nterest in a question pending in the house, is good
20 cause for disallowing a vote; but such an interest must be a direct
21 pecuniary interest, belonging to a separate description of
22 individuals, and not such as also belongs to all the citizens, arising
23 out of any measure of state policy"; and

24 WHEREAS, Section 1791 of *Cushing's Legislative Assemblies*
25 further provides that disqualification to vote generally "applies only
26 to private bills, or bills relating to individuals, such as estate bills,
27 inclosure bills, canals, joint-stock companies, etc., wherein only the
28 individual profit or loss is concerned . . . but does not apply to
29 questions of interest arising out of public measures, such as tax bills,
30 colonial regulations, domestic trades, and the like"; now, therefore,
31 be it

32 RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That
33 the fundamental purpose of representative government in this State
34 is to elect citizen Legislators who will advocate and vote on behalf
35 of their constituents so that those constituents are fully represented
36 in the people's branch of government and their voices are
37 effectively heard regarding the most critical legislative measures
38 that affect both the general welfare of this State and their everyday
39 lives; and be it further

40 RESOLVED, That there are legislative measures of immense
41 statewide importance, such as bills raising revenue and bills
42 approving the budget of the State Government, which globally
43 impact all citizens of this State because such measures set the fiscal,
44 economic and social priorities of this State and thereby influence
45 and affect every aspect of our society; and be it further



1 RESOLVED, That the public policy of this State favors the right
2 of citizen Legislators to perform the duties for which they were
3 elected and to vote or otherwise act upon a matter, provided they
4 have properly disclosed any conflicts of interest; and be it further

5 RESOLVED, That because abstention by a Legislator disrupts the
6 normal course of representative government and deprives the public
7 and the Legislator's constituents of a voice in the most important
8 governmental affairs, Rule No. 23 is intended to require abstention
9 only in clear cases and when the matter is particularly personal; and
10 be it further

11 RESOLVED, That Rule No. 23 does not require any member of
12 the Assembly to abstain from voting upon or advocating or
13 opposing legislative measures of immense statewide importance
14 which globally impact all citizens of this State because, in such
15 cases, the very nature of such legislative measures presumptively
16 makes the interests of every member of the Assembly no greater
17 than the interests of every other citizen of this State, and therefore,
18 the independence of judgment of members is not impeded by those
19 interests and they are not required to abstain; and be it further

20 RESOLVED, That during the 75th Session of the Legislature, the
21 legislative measures of immense statewide importance which
22 globally impact all citizens of this State include the General
23 Appropriations Act, the Authorized Expenditures Act, the
24 Unclassified Pay Act, the State Distributive School Account Act and
25 any legislative measures that increase various taxes and revenue
26 sources necessary to fund the State Budget, such as Senate Bill No.
27 429; and be it further

28 RESOLVED, That this resolution shall be entered upon the
29 Journal of the Assembly.

