

Amendment No. 402

Assembly Amendment to Assembly Bill No. 293

(BDR 18-761)

Proposed by: Assembly Committee on Elections, Procedures, Ethics, and
Constitutional Amendments

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

WBD/MSM



Date: 4/13/2009

A.B. No. 293—Makes various changes concerning appointments by the Governor
to certain offices within the Executive Branch of State
Government. (BDR 18-761)



ASSEMBLY BILL NO. 293—ASSEMBLYMEN ANDERSON, BOBZIEN, KIRKPATRICK, SMITH, CONKLIN; AIZLEY, ARBERRY, ATKINSON, CHRISTENSEN, DONDERO LOOP, GANSERT, HOGAN, HORNE, KIHUEN, KOIVISTO, LESLIE, MANENDO, MCCLAIN, MORTENSON, OCEGUERA, OHRENSCHALL, PARNELL, PIERCE, SEGERBLOM, SETTELMAYER, SPIEGEL AND STEWART

MARCH 11, 2009

Referred to Committee on Elections, Procedures, Ethics,
and Constitutional Amendments

SUMMARY—Makes various changes concerning appointments by the Governor to certain offices within the Executive Branch of State Government. (BDR 18-761)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to appointments; creating the Legislative Committee on Appointments; providing that appointments by the Governor to certain offices or positions within the Executive Branch of State Government ~~are effective for only 90 days unless they are~~ **must be confirmed or rejected** by the Committee **within 60 days after the date of the appointment; providing that such an appointment shall be deemed to have been confirmed if the Committee fails to reject the appointment within that period;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Governor has the authority under existing law to appoint persons to offices and positions within the various departments, boards and commissions of the Executive Branch of State Government. **Section 1** of this bill provides that certain appointments by the Governor ~~are effective for 90 days but are not effective after that time unless they are~~ **must be confirmed or rejected** by the Legislative Committee on Appointments **within 60 days after the date of the appointment. Section 1 also provides that the appointment shall be deemed to have been confirmed if the Committee fails to reject the appointment within the 60-day period.** (NRS 209.121, 213.108, 232.050, 232.515, 360.120, 463.024, 463.050, 703.030)

Section 4 of this bill creates the Legislative Committee on Appointments, consisting of the Chair of the Senate Standing Committee on Legislative Operations and Elections and three members of the Senate and three members of the Assembly, appointed by the Legislative Commission. **Section 6** of this bill requires the Committee to investigate and hold hearings to determine whether a person appointed by the Governor ought to be confirmed in that appointment. **Section 6** also requires the Committee to limit the scope of its inquiries to the professional qualifications and experience of the appointee and his fitness to hold the office or

position to which he has been appointed. Finally, **section 6** authorizes the Committee to require the appointee to cooperate with the Committee and to provide evidence and testimony to enable the Committee to determine whether the appointee ought to be confirmed in his appointment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 223 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Governor appoints a person to any of the following offices or positions, the appointment ~~is effective for 90 days after the date of the appointment but is not effective after that time unless the appointment has been~~ must be confirmed or rejected by the Legislative Committee on Appointments ~~created pursuant to section 4 of this act.~~ within 60 days after the date of the appointment:

- (a) The Director of the Department of Business and Industry.*
- (b) The Director of the State Department of Conservation and Natural Resources.*
- (c) The Director of the Department of Corrections.*
- (d) The Executive Director of the Department of Taxation.*
- (e) The Chairman of the Nevada Gaming Commission.*
- (f) A Commissioner of the Public Utilities Commission of Nevada.*
- (g) A member of the State Board of Parole Commissioners.*
- (h) A member of the State Gaming Control Board.*

2. A person whom the Governor appoints to an office or position set forth in subsection 1 has full authority to perform and shall begin to discharge the duties of the office or position immediately upon his appointment, subject to confirmation or rejection by the Legislative Committee on Appointments.

3. If the Governor appoints a person to an office or position set forth in subsection 1, and the Legislative Committee on Appointments fails to ~~confirm~~ reject the appointment within ~~90~~ 60 days after the date of the appointment, the appointment shall be deemed to have been ~~rejected~~ confirmed by the Legislative Committee on Appointments.

4. If the Governor appoints a person to an office or position set forth in subsection 1, and the Legislative Committee on Appointments rejects the appointment:

- (a) The office or position to which the person was appointed becomes vacant immediately; and*
- (b) The Governor may not appoint the person to any office or position set forth in subsection 1 for at least 1 year.*

5. As used in this section, "Legislative Committee on Appointments" means the Legislative Committee on Appointments created pursuant to section 4 of this act.

Sec. 2. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 8, inclusive, of this act.

Sec. 3. *As used in sections 3 to 8, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Appointments.*

Sec. 4. *1. There is hereby created the Legislative Committee on Appointments, consisting of:*

1 (a) Three members of the Senate appointed by the Legislative Commission,
2 one of whom must be a member of the minority political party;

3 (b) Three members of the Assembly appointed by the Legislative
4 Commission, one of whom must be a member of the minority political party; and

5 (c) The Chair of the Senate Standing Committee on Legislative Operations
6 and Elections, who shall serve as the Chair of the Committee but may cast a vote
7 only to break a tie.

8 2. Each appointed member serves for a term of 2 years commencing on
9 July 1 of each odd-numbered year.

10 3. Any member of the Committee who is not a candidate for reelection or
11 who is defeated for reelection continues to serve until the next session of the
12 Legislature convenes.

13 4. Vacancies on the Committee must be filled in the same manner as
14 original appointments.

15 Sec. 5. 1. The members of the Committee shall meet throughout each
16 year at the times and places specified by a call of the Chair or a majority of the
17 Committee.

18 2. The Director of the Legislative Counsel Bureau or a person he designates
19 shall act as the nonvoting recording Secretary.

20 3. The Committee shall adopt rules for its own management and
21 government.

22 4. Except as otherwise provided in subsection 5, four members of the
23 Committee constitute a quorum.

24 5. Any vote to ~~confirm~~ **reject** the Governor's appointment of a person to
25 an office or a position set forth in section 1 of this act requires a majority of the
26 members of the Senate appointed to the Committee and a majority of the
27 members of the Assembly appointed to the Committee.

28 6. Each member of the Committee, except during a regular or special
29 session of the Legislature, is entitled to receive the compensation provided for a
30 majority of the members of the Legislature during the first 60 days of the
31 preceding regular session for each day or portion of a day during which he
32 attends a meeting of the Committee or is otherwise engaged in the business of the
33 Committee plus the per diem allowance provided for state officers and employees
34 generally and the travel expenses provided pursuant to NRS 218.2207. The
35 salaries and expenses paid pursuant to this subsection and any other expenses of
36 the Committee must be paid from the Legislative Fund.

37 Sec. 6. 1. The Committee shall:

38 (a) Investigate and hold hearings to determine whether a person appointed
39 by the Governor to an office or position set forth in section 1 of this act ought to
40 be confirmed in that appointment.

41 (b) Limit the scope of its inquiries to the professional qualifications and
42 experience of the appointee and his fitness to hold the office or position to which
43 he has been appointed.

44 2. The Committee shall not inquire into the administration, budget or
45 activities of the agency to which the person has been appointed.

46 3. The Committee may require the appointee to:

47 (a) Testify before the Committee;

48 (b) Submit a copy of his professional resume or curriculum vitae and to
49 provide evidence to substantiate the education and experience claimed therein;

50 (c) Consent to the performance of an investigation of his criminal history;
51 and

52 (d) Provide any other evidence necessary to enable the Committee to
53 determine whether the appointee ought to be confirmed in his appointment.

1 *4. The Committee shall promptly notify the Governor and the Legislative*
2 *Commission in writing of its confirmation or rejection of an appointment.*

3 **Sec. 7.** *1. In conducting the investigations and hearings of the*
4 *Committee:*

5 *(a) Any member of the Committee may administer oaths.*

6 *(b) The Chair of the Committee may cause the deposition of witnesses,*
7 *residing either within or outside of the State, to be taken in the manner*
8 *prescribed by rule of court for taking depositions in civil actions in the district*
9 *courts.*

10 *(c) The Chair may issue subpoenas to compel the attendance of witnesses*
11 *and the production of books, papers or documents.*

12 *2. If a witness refuses to attend or testify or to produce books, papers or*
13 *documents as required by the subpoena, the Chair may report to the district court*
14 *by petition, setting forth:*

15 *(a) That due notice has been given of the time and place of attendance of the*
16 *witness or the production of the books, papers or documents;*

17 *(b) That the witness has been subpoenaed by the Committee pursuant to this*
18 *section; and*

19 *(c) That the witness has failed or refused to attend or to produce the books,*
20 *papers or documents required by the subpoena before the Committee that are*
21 *named in the subpoena, or has refused to answer questions propounded to him,*
22 *and asking for an order of the court compelling the witness to attend and*
23 *testify or to produce the books, papers or documents before the Committee.*

24 *3. Upon such a petition, the court shall enter an order directing the witness*
25 *to appear before the court at a time and place to be fixed by the court in its order,*
26 *the time to be not more than 10 days after the date of the order, and to show*
27 *cause why he has not attended or testified or produced the books, papers or*
28 *documents before the Committee. A certified copy of the order must be served*
29 *upon the witness.*

30 *4. If it appears to the court that the subpoena was regularly issued by the*
31 *Committee, the court shall enter an order that the witness appear before*
32 *the Committee at the time and place fixed in the order and testify or produce the*
33 *required books, papers or documents. Failure to obey the order constitutes*
34 *contempt of court.*

35 **Sec. 8.** *Each witness who appears before the Committee by its order, except*
36 *a state officer or employee, is entitled to receive for his attendance the fees and*
37 *mileage provided for witnesses in civil cases in the courts of record of this State.*
38 *The fees and mileage must be audited and paid upon the presentation of proper*
39 *claims sworn to by the witness and approved by the Secretary and the Chair of*
40 *the Committee.*

41 **Sec. 9.** *The provisions of this act do not apply to any appointment made by*
42 *the Governor before January 1, 2010.*

43 **Sec. 10.** *Notwithstanding the provisions of section 4 of this act, the*
44 *Legislative Commission shall, as soon as practicable after the effective date of this*
45 *act, make its initial appointments to the Legislative Committee on Appointments.*
46 *The terms of the members who are appointed pursuant to this section end on June*
47 *30, 2011.*

48 **Sec. 11.** *This act becomes effective on January 1, 2010.*