

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON ELECTIONS, PROCEDURES, ETHICS, AND
CONSTITUTIONAL AMENDMENTS**

**Seventy-Fifth Session
April 28, 2009**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:49 p.m. on Tuesday, April 28, 2009, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Ellen Koivisto, Chair
Assemblyman Harry Mortenson, Vice Chair
Assemblyman Ty Cobb
Assemblyman Marcus Conklin
Assemblywoman Heidi S. Gansert
Assemblyman John Hambrick
Assemblyman William C. Horne
Assemblyman Ruben J. Kihuen
Assemblyman Harvey J. Munford
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom
Assemblyman James A. Settelmeyer
Assemblywoman Debbie Smith

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Terry John Care, Clark County Senatorial District No. 7
Senator Joyce L. Woodhouse, Clark County Senatorial District No. 5
Assemblyman John C. Carpenter, Assembly District No. 33

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Terry Horgan, Committee Secretary
Cheryl McClellan, Committee Assistant

OTHERS PRESENT:

Lynn Chapman, State Vice President, Nevada Families, Sparks, Nevada
Rebecca Gasca, Public Advocate, American Civil Liberties Union of Nevada, Reno, Nevada
Matt Griffin, Deputy for Elections, Office of the Secretary of State
Larry Lomax, Registrar of Voters, Clark County, Las Vegas, Nevada
John Wagner, State Vice Chairman, Independent American Party of Nevada, Carson City, Nevada
Janine Hansen, President, Nevada Eagle Forum, Elko, Nevada
Alan Glover, Clerk/Recorder, Carson City, Nevada
Dan Burk, Registrar of Voters, Washoe County, Reno, Nevada
Tom Porta, P.E., Deputy Administrator, Corrective Actions, Mining and Water Programs, Division of Environmental Protection, State Department of Conservation and Natural Resources
Neena Laxalt, Elko, Nevada, representing South Truckee Meadows General Improvement District, Reno, Nevada

Chair Koivisto:

[Roll was taken. Committee rules and protocol were explained.] We will open the hearing today with Senate Bill 156.

Senate Bill 156: Clarifies provisions governing the persons who may sign initiative petitions to recall public officers. (BDR 24-382)

Senator Terry John Care, Clark County Senatorial District No. 7:

This legislation deals with an issue that arose in Boulder City some time ago. You have a number of handouts coming, and I will guide you through them. I do not represent Boulder City, have never represented Boulder City, and do not really have an interest in it other than as a Legislator who has concerns about

the State of Nevada. The thrust of the bill goes back to a dispute that arose in early 2008 and dealt with an attempt to recall a couple of members of the Boulder City Council.

The first thing I would like to direct your attention to is an article that appeared in the *Las Vegas Review Journal* on March 28, 2008 ([Exhibit C](#)). This article gives you an idea of what the dispute was all about. The people who were seeking the removal from office of two city council members in Boulder City thought they had gathered enough signatures. When it came time to qualify the recall petition, an issue arose about what the threshold for signature collection in the *Constitution* was. It talks about 25 percent of those who voted in the previous election as being the threshold for signature collection, but does that mean 25 percent of the people who actually voted—the same people—as opposed to 25 percent of the number of voters. That was the issue.

The matter went to the Secretary of State who is, after all, the Chief Elections Officer for the State of Nevada. About halfway down the front page of the newspaper article is a quote from Mr. Griffin from the Secretary of State's Office. He says, "From what I gathered, there was no uniform understanding of who can sign recall petitions," and that is what this bill is all about.

A couple of paragraphs later in the newspaper article it says:

But Clark County Registrar of Voters Larry Lomax said none of the recalls in the county since 1994, including the 2005 ouster of Las Vegas City Councilwoman Janet Moncrief, was done the way Miller [the Secretary of State] says they should have been. Instead, the county has been allowing any registered voter to sign a recall petition, regardless of whether the voter took part in the election of the official targeted for recall.

Those two sentences pretty much encapsulate the debate. While I do not represent Boulder City, when I heard about this dispute I thought it ought to come before the Legislature because it has implications statewide for all manner of recall efforts.

I have given you an interpretation by the Secretary of State dated March 25, 2008 ([Exhibit D](#)). On the first page the Secretary of State wrote, "The plain and unambiguous language of this provision requires that a recall petition must be signed by at least 25% of the voters *who actually* voted at the election in which that public official was elected."

There was a subsequent legal opinion from the Attorney General's Office dated May 13, 2008 ([Exhibit E](#)). In that opinion the Attorney General's Office wrote:

There is disagreement over the interpretation of Article 2, §9. One interpretation is that only a registered voter who cast a ballot in the election in which the public officer was elected may sign a petition recalling that public officer. The other interpretation is that any registered voter may sign a recall petition.

On page 6 of that opinion, the Attorney General concluded:

Thus, the interpretation that only registered voters who *actually voted*, i.e. in fact or in act voted, may sign a recall petition is compatible with the other constitutional provisions.

When I received that letter, I asked for an opinion from the Legislative Counsel Bureau (LCB). You have a copy of that, dated June 18, 2008, and authored by Senior Principal Deputy Legislative Counsel M. Scott McKenna ([Exhibit F](#)). On the third page of that letter he wrote: "The right to vote and, by extension, the right to petition for the recall of a public officer, is a fundamental constitutional right." In conclusion, Mr. McKenna wrote:

Therefore, we believe that all voters validly registered in a given municipality, district, county or the State, as applicable, may sign a recall petition to recall a public officer who was elected to public office in the pertinent jurisdiction.

As you can see, there is an interpretation from the Secretary of State's Office and the Attorney General's Office that you cannot sign a recall petition unless you voted in the previous election. However, we have an opinion from the Legislative Counsel Bureau that says if you are a registered voter in that district, you may sign the recall petition.

The first opinion could result in an absurd result. Let us suppose you had a community of 200 people and they all voted in an election. Then, the 200 people move out before the next election and 200 new people move in. Arguably, you could never recall the people who hold office because not even 1 percent of the people who voted in the previous election remain.

So the idea behind Senate Bill 156 is to clarify in statute what the *Constitution* intends. The argument has been made that, because we are legislators, all we can do is adopt, repeal, modify, or enact legislation but we cannot amend the

Constitution. That is true, but if you look at the Legislative Counsel's Digest of the bill, there is an additional citation to Article 2, Section 9, of the *Constitution*. The second sentence says, "The Constitution also provides that '[s]uch additional legislation as may aid the operation of this section shall be provided by law'," meaning that you may indeed enact legislation that assists in the operation of the *Constitution*. So it is on that basis that I brought the bill forward.

I just happen to think, as does our own Legislative Counsel Bureau, that Senate Bill 156 is appropriate. It would clarify the legal stance taken by our Legislative Counsel Bureau that, when it comes to a recall petition, it is 25 percent of the number of registered voters in that district in the previous election, and not 25 percent of the same voters who voted in the previous election.

That is pretty much the bill, Madam Chair. I framed it as simply as I could. We did have opposition in the Senate from some people from Boulder City, but I do not know if they are going to appear today. I did not bring anyone with me to testify in support of the bill. I believe it is pretty simple. Either you agree with the Legislative Counsel Bureau's interpretation, or you agree with the Attorney General's interpretation.

Chair Koivisto:

That is very interesting. Do we have any questions?

Assemblyman Horne:

I am in support of the bill. You hear people say that if you vote, you have no right to complain, but that is not true. Just because you do not vote does not mean that you have lost your right to complain about your government. If that is the case, you have the right not to vote in an election. Then, if you are unhappy with whoever holds the office, you should have the right to say so. That right still exists. That is what this bill says; you do not waive those rights just because you failed to cast a ballot. It was your right not to cast a ballot, so I think this is a good clarification.

Assemblyman Mortenson:

Following Mr. Horne's logic, which I like, you could take that a step further back and say that you did not have to register to vote if you wanted to complain about your government. Therefore, any number of people, whether registered or not, having voted or not, should be able to sign a recall petition.

Assemblyman Settlemeyer:

I am very glad you brought this bill. In Douglas County we had the same problem trying to discern who qualified to sign a recall petition. To me, we could go even one step further than Mr. Mortenson did. Under the current rule, you would have to prove the person voted in that election. Would you also have to prove that the person voted in that race? That would create a whole additional dynamic, because how would you keep track of that? I appreciate the clarification. This is a good bill.

Senator Care:

I had not thought of that.

Assemblyman Munford:

I think my question has been answered, but sometimes the group who voted a person into office might have better knowledge of the individual's performance because they took an interest by voting. Maybe those who did not vote did not take that much interest or have much awareness of the situation and that he had not performed well. Those who voted an individual into office should also have the power to remove that individual. However, what some of my colleagues have said also makes sense. I think this is a good bill, but I still feel that sometimes the people who actually participated should be the sole voices in determining whether the officeholder performed to the level they wanted him to. But the bill is a good bill, and will clean some things up.

Chair Koivisto:

Are there any other questions from the Committee? [There was no response.] We will now hear from those who have signed up in support of the bill.

Lynn Chapman, State Vice President, Nevada Families, Sparks, Nevada:

We do support this bill, and I did speak for it in the Senate. I will go one step further than Mr. Settlemeyer. Will only the people who voted for this person be able to recall him, and how would you know that?

I live in Sparks, but what if I move to Reno? I know the City Council in Reno, and have been following what they have been doing. If I move to Reno, why should I not be able to recall someone if I have that opportunity and I am registered to vote? Why should I not be able to vote in a recall or sign a petition for recall? I should be, because I will be affected by the decisions made by the officeholders.

Also, what happens when someone turns 18 and registers to vote? Would that person be told he could not sign a petition because he had not voted in the prior

election? That would disenfranchise a lot of people. I am in favor of this bill and would like to see it pass.

Rebecca Gasca, Public Advocate, American Civil Liberties Union of Nevada, Reno, Nevada:

We are here in support of this bill. We also testified in support of it earlier in this legislative session. There were issues raised about the constitutionality of the bill. While it is clear that the constitutional provisions cannot be amended by the State Legislature, we do not see this as a conflict of interest. We see this as a clarification of the phrases therein.

Originally, the intent of Article 2, Section 9, is, and we believe should always have been, to include all registered voters in a particular district. We believe any other interpretation would actually be unlawful, so we are certainly heartened to have this bill put forward. We believe its intent was already recognized by the language of the *Constitution* itself, but of course any sort of clarification for purposes of carrying out official duties of the Secretary of State or of other individuals who wish to participate in the process is certainly warranted.

There are two cases we found that addressed this issue that I would like to cite: *Ayers-Schaffner v. Distefano*, 37 F.3d 726 (1st Cir. 1994), and *Partnoy, et al. v. Shelley*, No. 03CV1460 BTM (JFS) (U.S. District Court, Southern District of California). The first case is a decision that ruled directly on point to the issues that have been brought up here. The decision said that the case posed an interesting and readily answerable constitutional question: Can state election officials restrict the right to vote in a new, curative election to those who participated in the original defective election? The District Court found that no state interest was served by such a limitation, and rejected it as unconstitutional. The federal court agreed, and thus affirmed the district court's order directing that the contested new election be open to all registered and qualified voters.

Partnoy, et al. v. Shelley held that those who had not voted in recall elections could not be denied the chance to select Governor Gray Davis' successor in the State of California noting that, as Assemblyman Horne said, choosing not to vote at a first election was by no means a basis from which to deny a person's later choice to participate in the curative election. That is a basic, fundamental First Amendment argument that was used in that case.

As you see, there are federal court cases that support the position that this bill intends to address, and we are certainly in full support of the bill. We thank the bill's sponsor for bringing it forward.

Chair Koivisto:

I do not have anyone else signed in to speak on this bill. Is there anyone else who wishes to offer testimony on S.B. 156 either for, against, or neutral? [There was no response.] All right, we will close the hearing on S.B. 156 and open the hearing on Senate Bill 162 (2nd Reprint).

[Senate Bill 162 \(2nd Reprint\)](#): Revises the date of the primary election and provisions governing voter registration by mail. (BDR 24-1001)

Senator Joyce L. Woodhouse, Clark County Senatorial District No. 5:

I am here today to introduce S.B. 162 (R2) for your consideration. This measure intends to make two specific changes in Nevada's election laws. First, S.B. 162 (R2) moves the date of the primary election to the second Tuesday in June of each even-numbered year. Second, the bill revises provisions governing the effective date for certain mail-in voter registration application forms. [Senator Woodhouse read an explanation of the provisions in the bill from prepared text. She also supplied a chart listing dates and deadlines that would be altered in accordance with a June date for the primary election ([Exhibit G](#)).]

Assemblyman Segerblom:

I would like to say for the record that this is a great bill.

Assemblyman Settlemeyer:

I understand that Clark County holds more municipal elections than we do in some of the rural, northern areas of the state. Our voters are telling us that they are tired of elections, mailers, and campaign signs. Adding another 60 days would make the campaign season even longer. What can I tell my constituents who do not want the election cycle extended two months?

Senator Woodhouse:

That is correct; this bill would extend the election period an additional two months. A primary election is going to be held anyway. This bill does not address city elections; just the state elections that we had last August and November. What I am trying to do is move the primary election back two months. I am also receiving emails and phone calls, especially since the City of Henderson just held a primary election. People are complaining that there are too many elections, but it is my personal feeling that we are citizens of this country, and the state, cities, and counties we live in, and that it is

incumbent upon us to do our jobs and participate in the democratic process and get out and vote.

Chair Koivisto:

Thank you. That is an excellent way to state the issue. We on this Committee have heard for the last couple of sessions how difficult it is for election officials, particularly in Clark County where the process is huge, and how they need the extra time. Moving the primary election back will give the Registrar in Clark County enough time. We want to be certain we can get ballots to our voters overseas, those enlisted in the military, and receive the ballots back. That is very important.

Assemblyman Conklin:

I am looking specifically at page 15, section 13, of the bill. There is language deleted that may have the effect of allowing two candidates from any major party to go forward in a primary regardless of whether any third-party candidates file. That is a significant change in campaign law. Do you know what the logic for that was?

Senator Woodhouse:

Yes, and this issue also came up when the bill was heard in the Senate. This change was requested by the Secretary of State's Office, so I would like to ask their representative to answer that question.

Matt Griffin, Deputy for Elections, Office of the Secretary of State:

It was an amendment offered by the Secretary of State's Office based on a Ninth Circuit Court case. The Ninth Circuit Court said putting the petition period too far away from the general election for those candidates who have to petition to get ballot access, independent or minor parties that do not have ballot access, is a disenfranchisement and a Fourteenth Amendment issue because no one wants to sign a petition that distant from the general election. When Senator Woodhouse introduced the bill, we had to amend the filing period as close to June as we could so these minor-party candidates could petition to get on the ballot and we would not run afoul of any court action.

Judges file in January. All candidates with ballot access file in March, and all candidates without ballot access file in April. Because the court said not to put candidates without ballot access too far away from the general election, we had them file in April. We had to remove any effect they might have on the primary election. That is what you are seeing on page 15. The language that has been deleted was how minor party candidates could affect a primary election, and in

order to be compliant with case law, we had to remove that so they could file in April.

Assemblyman Conklin:

What is the court case?

Matt Griffin:

Nader v. Brewer (386 F.3d 1168) out of Arizona. There are also cases in Oregon and Oklahoma. When this issue arose, I talked with the Attorney General's Office. It is our opinion, and also the Legislative Counsel Bureau's (LCB) opinion because we talked with Ms. Erdoes about this, that if we do not change this, the likelihood is that we would not lose a court case. But the result of a loss in a court case might be to affect the primary election altogether. Because the risk is so great, it was our opinion, which was shared by Ms. Erdoes, that we better put the filing in April so as not to jeopardize the primary election.

Assemblyman Conklin:

Madam Chair, I like this bill. This bill should go forward, as far as I am concerned. However, I am concerned both from a major-party-candidate standpoint and also from a third-party-candidate standpoint. I would like to hear from any third parties who might be here today whether this is appropriate for their candidates.

Matt Griffin:

In the hearing on this bill in the Senate, Ms. Hansen pointed out that the change in the bill affecting the primary affects major and minor political parties, but only those parties without ballot access would be required to file in April. Everyone else with ballot access files in March.

Chair Koivisto:

Does that answer your concerns? Are there other questions from the Committee? [There was no response.] Larry Lomax in Clark County has signed in to support this bill.

Larry Lomax, Registrar of Voters, Clark County, Las Vegas, Nevada:

We definitely support this bill. We believe it will help increase voter turnout, and it should reduce costs. While I cannot give you exact numbers, I am quite confident it will cost us less because right now we spend a lot of money on overtime due to the compressed schedule under which we operate. Another consideration involves the heat of August. No one likes the heat of August, and moving the election away from that should be beneficial to all of us. I think it

will be very beneficial. We will have more time to proof, and from our point of view, these are all good things.

Chair Koivisto:

A number of people have signed up in support and indicated they wished to speak.

John Wagner, State Vice Chairman, Independent American Party of Nevada, Carson City, Nevada:

I represent a third party. We support the bill, but have a couple of problems. Language in section 8 of the bill states that major parties can file from the first Monday in February until the first Friday in March. That gives those candidates one month plus one week to file; however, our minor party can only file from the first Monday in March to the first Friday in March. That is one week. I do not think that is fair. The weather in Carson City can be very adverse in March. If you have to come in from the rural counties, you must schedule yourself appropriately. I think we should have the same time frame as do the major parties.

The other section I have a problem with is section 13, which is the one that was just addressed. Actually, the way I read it, if two members of the same major party are running in a primary and there is no other major-party candidate in that race and we have a candidate in that race, that is good for us. We have to split the voters with the Republicans or the Democrats, and our party might get elected. That might end up helping our minor party.

Janine Hansen, President, Nevada Eagle Forum, Elko, Nevada:

We supported the change in the primary date for several reasons. One reason is that we feel there is a greater focus on the general election, which is an important change of focus. It also allows organizations like Nevada Eagle Forum, which puts out a voter guide, to have additional time for our volunteers to get those out. Because of early voting, the time between the primary and general elections is squeezed down as is the printing time. We only had two or three weeks to put out 50,000 voters' guides. Our volunteers were working day and night to accomplish that. Many other organizations such as the League of Women Voters and Common Cause put out voter information, so that change would be advantageous for us all. Another issue in the bill involves only having five days to file for candidacy.

With regard to section 13, there are two different kinds of potential minor parties. One kind of minor party includes the Independent American Party and the Libertarian Party, which already have ballot access. Then there are those

parties attempting to get on the ballot. The dates have a much greater impact on those latter parties. As John Wagner said, if two Democrats are running in a race and a third-party candidate files who is from a party already on the ballot, then all three of those people go on to the general election. In that circumstance, as John said, it might be advantageous for a third party, but that third party could collude with and work with one of the candidates to help get that one elected. As a result, the third-party candidate might determine which of the two Democrats, or Republicans, gets elected in that race. That is a significant change in philosophy. It might be advantageous to third-party candidates, but it is only fair that you understand that is what might happen. We did not testify on this in the Senate because this language was in an amendment added after our testimony, so it was never addressed in the Senate hearing on this bill. I do not know if there is a way to bifurcate this, but I think that will be the result, and it may greatly advantage third parties in those particular situations.

I want to discuss one other issue, and I spoke to Senator Woodhouse about it. The Declaration of Candidacy is on pages 8 and 9 of the bill, and it mentions an oath or affirmation. Right now, when you take the oath of office you can choose a religious oath or an affirmation. Any constitutional officer has that choice when he is being sworn in, but the forms prescribed by the Legislature that we sign as candidates, or campaign filing forms, only allow us to sign a secular affirmation. This is an issue for me and others, because we believe it violates our religious liberties.

In 2006, I filed my campaign finance reports on time with the Secretary of State's Office. On the first report for the year, I crossed out the words "under penalty of perjury" and wrote, "I swear, in the name of Jesus Christ that the foregoing is true and correct." I received no notice at that time; nor after the next two filings. However, in May I received a \$15,000 civil penalty with no notice that was going to happen; yet I had filed in that manner three times. I asked for a waiver, which was denied because the form was prescribed by the Legislature. So the only way to get remedy for this is to come to you and ask you to allow for that.

The *Nevada Constitution* requires a perfect toleration of religious sentiment, so all that would be required for any of these forms would be to add an optional religious oath reading something like "so help me, God (or other deity)" which would cover Muslims or any other religions that may have a deity different than Jesus Christ. You already have the secular affirmation "under penalty of perjury." Mr. Hambrick told me that the Jewish religion has to use a secular affirmation. This would allow two different options and accommodate people

like me who have complied with the law in its entirety, but feel it is important to recognize our religious beliefs in taking an oath.

If this change is not made, I have the option of either violating my religion by filing according to what the Secretary of State requires, or getting another \$15,000 fine if I choose to run for office. But it is not just me; there are other people concerned and aware of this. This does not harm anyone; but, recognizing that some people may have a different point of view, it gives them an option. It would not affect my current controversy with the Secretary of State, because we are already in court over that. I am looking to the future, and I think we should be more sensitive and recognize that there are differences of opinion with regard to religious liberties. Just as you can choose, when you are sworn in, others should have the right to choose, as well. I asked Senator Woodhouse, and she had no objection to me bringing this forward. As I said before, we did support the change to the primary date, but the issue of the minor party is of concern.

Chair Koivisto:

Are there questions from the Committee for Janine? [There was no response.] Matt, can you address the comments Janine made about minor-party candidates?

Matt Griffin:

Her recitation is correct. Currently, in a partisan office, if two members of the same major political party are running and a member of a minor political party files for that same office, the major political parties run in the primary, and then it becomes a two-person race in the general election. So, one major-party candidate will be out after the primary, and the remaining major-party candidate will run against the minor-party candidate in the general election.

How this would play out is all speculation, but I think Ms. Hansen is probably correct when she states that if anyone would benefit under this revision, it would probably be the minor-party candidates. It would lead to a three-candidate general election, so a minor-party candidate would be facing off against two members of the same party. Of course, circumstances and specifics would dictate who would benefit from that, but the example Janine gave has merit. In certain instances, a three-candidate general election would benefit minor parties.

Larry Lomax:

What drives this change is the decision by the Secretary of State and the legal people that we have to allow this certain group of individuals to file in April. If

they file in April, we must allow time for any challenges that could occur after candidate filing so we cannot print ballots in time for a primary election in June. As an example, if two Democrats file for an office and no one else has filed, we will not know until the candidate-filing period in April is over whether or not anyone is going to enter that contest, so we must put all their names on the ballot. If everyone filed in March, this issue would go away. Now, I do not have a legal background, so I do not know if we must wait for April, but the reason these compromises have been made is so we can print the ballots.

Assemblyman Segerblom:

Has anyone looked at California law? There is one that may stand for a general proposition about notice, but it certainly does not deal with this particular issue. This bill seems to make a pretty dramatic change in order to accommodate the fact that we have these people file in March.

Matt Griffin:

Our only reservation about this is the dire consequences of losing a lawsuit by putting these candidates' filing period too far out. If we were to lose a lawsuit, one of the remedies that would be sought would be to alter the date of the primary election, which would be a few-million-dollar endeavor for the state and the counties to shoulder. As I said, Ms. Erdoes' belief is that there is probably a low percentage that we would lose a lawsuit; however, should we lose a lawsuit, the consequences would be dire. That is the rationale behind the amendment.

Janine Hansen:

I was just talking to Mr. Griffin, and this might have legal problems, but one suggestion involves the fact that there are two kinds of minor parties. Minor parties like the Independent American Party and the Libertarian Party have ballot access now. Then there are parties attempting to get on the ballot. This bill changes the primary law for minor parties that are trying to get on the ballot. I do not know if there would be a way to make a distinction between those two types of minor parties, but possibly for minor parties that have access to the ballot the law could remain the same. For parties attempting to get on the ballot, their candidates would go all the way to the general election because of the later filing date for them. That might be something to look into. The other parties that have had ballot access for many years are listed in every election, and that is not what this language is responding to. The language is about the other minor parties attempting to get access.

Assemblyman Segerblom:

If I am running in my primary, and someone else from my party is running against me, and you have a candidate running, the winner of my primary will run against your candidate. Is that what you understand, Mr. Griffin?

Matt Griffin:

That is the way the law currently reads. Under this bill, all three would go to the general election. You would not have a primary against a member of your own party.

Janine Hansen:

As the law stands now, if two Democrats are running and a third-party candidate files, there is a primary between those two Democratic candidates. One of the Democrats and the third-party candidate will go to the general election. This law would require that if there are two Democrats running and a third-party candidate files, all three of them would go to the general election.

Assemblyman Segerblom:

I thought you were saying as this bill is written, because you are a member of a party that has ballot access ...

Janine Hansen:

No. I was saying that that is a possibility to answer the concerns about the way this is dramatically changing the way we run primary elections. I was saying we could bring up the distinction that there are two different kinds of minor parties being responded to in this bill. It is significant, because the parties that have been on the ballot for years are in a different category than those trying to get on, according to the courts.

Assemblyman Segerblom:

But the issue right now with this bill is that there is so much time between when the minor-party candidate files and the November election, which is when they run. If you shorten the time, there is not enough time to print ballots for the primary election.

Matt Griffin:

That is correct.

Chair Koivisto:

Are there other questions from the Committee? I think we are going to have to work on this section to get some clarification. It may need to be tightened up or loosened before we can move the bill.

Matt Griffin:

I will get the legal citations and case law together and contact Ms. Erdoes for any materials she might have and coordinate whatever meeting you would like to have.

Janine Hansen:

We would really like to be included in that meeting, because it significantly affects us.

Chair Koivisto:

All right; Mr. Conklin can help work on that. Additional people have signed in to support this bill.

Alan Glover, Clerk/Recorder, Carson City, Nevada:

Me, too. We are very much in favor of this bill.

Chair Koivisto:

No one else has signed who indicated support for the bill, so now we will hear from those in opposition.

Dan Burk, Registrar of Voters, Washoe County, Reno, Nevada:

I am here on behalf of the Washoe County Board of Commissioners. The Board of Commissioners is in unanimous opposition to moving the primary election date to June. The opposition is based on the fiscal impact it would have for fiscal year (FY) 2010. As you know, Washoe County right now is working on trimming \$47.5 million out of its budget. Passage of this bill would mean the primary election would be moved out of FY 2011 and into FY 2010. It is a hard pill to swallow. It would cost about \$500,000 to run the primary election in 2010, and that was not an expense the Board had planned on. So that is why they asked me to come to the hearing and indicate their opposition to that aspect of the bill.

I know the Secretary of State's bill addresses this too, but I appreciate clarifying the date mail-in voter registration forms are valid prior to an election. It is something that really needs to be addressed because there is a lot of confusion. Other than that, Senator Woodhouse's comments are well taken and express the view of a lot of people involved in election administration.

Assemblyman Ohrenschall:

Looking at the bottom of page 19, in section 16, this is the fix for that error when someone filled out a voter mail-in registration but did not get it

postmarked within three days. Does this language appear only in this bill, or does it also appear in the Secretary of State's omnibus election bill?

Dan Burk:

I believe it is also in the omnibus bill.

Assemblyman Ohrenschall:

So, regardless of whether this bill passes, that fix is still in another bill?

Dan Burk:

That is correct.

Matt Griffin:

Yes, it is still in that bill.

Chair Koivisto:

Are there any other questions by the Committee? [There was no response.] I do not see anyone else who has signed in to speak on this bill. Is there any public comment on this bill? [There was no response.] We will close the hearing on S.B. 162 (R2). I will have Mr. Conklin contact Senator Woodhouse and the other interested parties to set up a meeting to clarify this language.

I will open the hearing on Senate Bill 263 (First Reprint). We have a pinch hitter today.

Senate Bill 263 (1st Reprint): Amends the Charters of the Cities of Carlin and Wells to revise provisions governing municipal elections. (BDR S-1003)

Assemblyman John C. Carpenter, Assembly District No. 33:

As you mentioned, I am here to pinch hit for Senator Rhoads on S.B. 263 (R1). This bill changes the city charters of Carlin and Wells so the filing dates for city council and mayor are the same as those for other candidates for state offices. It also amends those cities' charters so the proper names will appear on the ballot. Right now, their charters provide that these two offices are elected at the general election the same as we are.

Chair Koivisto:

Mr. Carpenter, are the city council candidates in Carlin and Wells currently elected in off years?

Assemblyman Carpenter:

Before, they were elected in June. Last session, the elections were changed so those positions would be elected at the same time we are elected. For some reason, however, there was a mix-up, and it was not clear when these people should file for these offices. This bill will take care of that, and states that they file for office the same time as we do and are elected at the same time we are. The reason they want to do that is because it saves those cities quite a bit of money if they do not have to conduct a separate election for mayors and city councilmen.

Chair Koivisto:

Are there questions for Mr. Carpenter? Is there anyone else who wants to testify on S.B. 263 (R1)? I do not have anyone signed in for it. [There was no response.] We will close the hearing on S.B. 263 (R1) and open the hearing on Senate Concurrent Resolution 2 (1st Reprint).

Senate Concurrent Resolution 2 (1st Reprint): Encourages entities that are engaged in monitoring the water quality of the Truckee River to coordinate certain activities. (BDR R-237)

Tom Porta, P. E., Deputy Administrator, Corrective Actions, Mining and Water Problems, Division of Environmental Protection, State Department of Conservation and Natural Resources:

[Mr. Porta read his testimony in support of the bill from prepared text [Exhibit H](#).]

Chair Koivisto:

I have received correspondence from people in Fallon. Are you working with the people in Fallon on this?

Tom Porta:

When we sent out the initial mailing, it was quite an extensive list. I will check to see if the people in Fallon were included, but I believe they were. We included agencies from California as well as the Lahontan Regional Water Quality Control Board.

Assemblyman Mortenson:

You talk about publishing the data in a single source to make that available to the public. Have you had problems in the past with different people providing information to the public that contained inconsistencies?

Tom Porta:

Several agencies provide information on the Truckee River monitoring data. Those data are collected for a range of different reasons—for research versus meeting the requirements of the Clean Water Act. It was felt that the public does not have one, single source they can go to, whether their needs or interests are in research or whether their needs and interests are simply whether the water is fishable or swimmable. This site will probably work through Washoe County and be linked to these other sites to provide one place where people can go to get whatever data they desire.

Assemblyman Mortenson:

In other words, they can go to your link and see what the Desert Research Institute (DRI) study produced or what another study might have produced?

Tom Porta:

Correct.

Assemblyman Mortenson:

Okay, that is good. I worry when people have only one source for information and numerous people are doing the studies.

Assemblywoman Gansert:

There is the Western Regional Water Commission, overseen by an interim study committee which worked with Washoe County individuals. Is this coordination effort outside of that group? How does this work with the Commission?

Tom Porta:

We will report to the oversight committee, but we are coordinating with the agencies within Washoe County and others to put this data and information together and then report to the oversight committee.

Assemblywoman Gansert:

Those agencies are working together right now and reporting to the oversight committee. Is this just another coordinating agency? Why did they go outside the committee that currently stands?

Tom Porta:

I do not know the answer to that. Senator Amodei felt there was a need to bring water quality data into one place and have it available to the public and to the oversight committee. He felt that rested with the Nevada Division of Environmental Protection (NDEP) which will report to the oversight committee. We work with the Western Regional Water Commission, Truckee Meadows

Water Authority, and all the rest. There have been members from those organizations at our meetings.

Assemblywoman Gansert:

I am trying to determine how this is all linked together. We tried to bring everyone together, which has happened. So I am trying to figure out why we are doing this, because it appears to be outside what is happening within the region.

Chair Koivisto:

I think this just encourages entities that are engaged in monitoring the water quality to coordinate certain activities.

Assemblywoman Gansert:

They are coordinating a lot of different things. When I sat on the interim committee, some of this information was brought to us. We would hear different pieces of information, so maybe this is trying to bring it to one source, because we did get our information from a variety of sources. On the other hand, they are working together right now through the commission that was established by the interim committee.

Chair Koivisto:

Maybe this is encouraging them to keep working together. Are there other questions from the Committee?

Assemblyman Cobb:

I echo the comments by my colleague from Washoe County. As a fellow Washoe legislator, I assumed a lot of the duties described in this bill were already assigned to the Western Regional Water Commission. I think these duties are best handled by a local entity in Washoe County.

My second concern is that there are multiple responsibilities heaped on the Division of Environmental Protection without a fiscal note attached. Why is there no fiscal note, and do we want to shift responsibilities from the local people who are already engaged in this to the state?

Tom Porta:

With regard to the fiscal note, we looked at this bill and felt once we got the ball off the ground, there would be only a handful of meetings annually to help with the coordination effort. So we felt the impact would be negligible, because we meet with various entities on monitoring issues, et cetera, in the south, in the Las Vegas and Clark County areas. It does not have an impact; it

is part of our jobs, so that is why we did not attach a fiscal note. We did not believe coordination of this effort would be that big a drain on our resources once it is off the ground and is on its way.

Assemblyman Mortenson:

As I read the bill, it says coordinate "into a single source." You told me that when they go to this source, there truly will be links that can be clicked on to view things like, for instance, a DRI report? It will be that way? Some terrible things have happened in this country concerning drinking water. One time, a nuclear plant on the Columbia River leaked incredible amounts of radioactive iodine as a result of a fuel meltdown. No one ever let anyone downstream know about it, and terrible medical problems resulted from it. So I want to make certain that if multiple people are monitoring, multiple people get a voice.

Tom Porta:

Yes.

Assemblywoman Gansert:

In looking at this, the agencies that receive copies of this report are all the agencies that are involved and then some, so maybe that is part of the reason they want to go to something external, because it goes beyond what the Western Regional Water Commission may be compiling. Maybe that is why they are looking to do something different.

Chair Koivisto:

This was a recommendation from the interim Legislative Committee to Oversee the Western Regional Water Commission. Are there other comments or questions on this bill?

Neena Laxalt, Elko, Nevada, representing South Truckee Meadows General Improvement District, Reno, Nevada:

As I recall from the interim committee's hearings, Assemblyman Anderson first became concerned about who was monitoring and who was not. As the entities started coming forward, he realized that a lot of entities were monitoring it and that sometimes it was coordinated and sometimes it was not. I believe he wanted to develop "one-stop shopping" so if people had questions, they could go to one place for the answers. It did, in fact, go beyond the members of the Western Regional Water Commission. It included other state and federal groups.

Assemblyman Segerblom:

Do you support the bill?

Neena Laxalt:

Yes, we support the bill. This is not requiring any more monitoring than was being done before. It just puts all the people together so that the information is all in one place.

Chair Koivisto:

This bill simply urges the entities working on monitoring the Truckee River to coordinate their efforts. It came from the Legislative Committee to Oversee the Western Regional Water Commission. Are there any other questions or concerns from the Committee? [There was no response.] Is there any other public testimony on this bill? [There was no response.] Is there any reason not to move this bill today?

ASSEMBLYMAN HORNE MOVED TO ADOPT
SENATE CONCURRENT RESOLUTION 2 (1ST REPRINT).

ASSEMBLYMAN SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN AND SMITH
WERE ABSENT FOR THE VOTE.)

Let us go back to Senate Bill 156, Senator Care's bill.

ASSEMBLYMAN HORNE MOVED TO DO PASS SENATE BILL 156.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN AND SMITH
WERE ABSENT FOR THE VOTE.)

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There were questions on the other two bills, so I am going to hold those for a work session. Is there anything else to come before the Committee? [There was no response.] Seeing nothing, we are adjourned [at 5:14 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblywoman Ellen Koivisto, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Elections, Procedures, Ethics, and Constitutional Amendments

Date: April 28, 2009

Time of Meeting: 3:49 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 156	C	Senator Terry Care	Article from the <i>Las Vegas Review Journal</i>
S.B. 156	D	Senator Terry Care	Secretary of State's interpretation
S.B. 156	E	Senator Terry Care	Attorney General's opinion
S.B. 156	F	Senator Terry Care	Legislative Counsel Bureau's opinion
S.B. 162 (R2)	G	Senator Joyce Woodhouse	Prepared text used to present the bill
S.C.R. 2(R1)	H	Tom Porta	Prepared text read to the Committee in presentation of the bill