

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

**Seventy-Fifth Session  
February 19, 2009**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:49 p.m. on Thursday, February 19, 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](#)) and the Attendance Roster ([Exhibit B](#)), 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/](http://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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Ellen Koivisto, Chair  
Assemblyman Harry Mortenson, Vice Chair  
Assemblyman Ty Cobb  
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:**

Assemblyman Marcus Conklin (excused)

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Tim Tetz, Executive Director, Office of Veterans' Services, Reno, Nevada  
Jeffrey Mark, Lt. Colonel, Nevada Army National Guard, 140th Military  
Police Brigade Liaison Detachment  
Larry Lomax, Registrar of Voters, Clark County, Nevada  
Alan Glover, Clerk/Recorder, Carson City, Nevada  
Matt Griffin, Deputy for Elections, Office of the Secretary of State  
Rebecca Gasca, Public Advocate, American Civil Liberties Union of  
Nevada, Reno, Nevada

**Chair Koivisto:**

[Roll called.] If anyone has a cell phone, pager, or any other device that makes noise, please turn the sound off. If you are going to testify, please sign in on the attendance sheet so we can keep a record of who is interested in a particular piece of legislation. Present a business card or something to the secretary so she knows the correct spelling of your name and has a record of addresses, et cetera, if she needs to contact you. If you have materials you want to distribute to the Committee, make sure we have 17 copies. When you come up to testify, be sure to turn the microphone on and identify yourself.

We can go ahead and hear a bill from the Office of Veterans' Services. This is Assembly Bill 41 and Tim Tetz is going to present it.

**Assembly Bill 41:** Makes various changes to voter registration and voting procedures for certain members of the Armed Forces of the United States and their family members and certain other voters who reside outside the United States. (BDR 24-324)

**Tim Tetz, Executive Director, Office of Veterans' Services, Reno, Nevada:**

This is an important bill and I want to be certain it gets a hearing. Matt Griffin from the Secretary of State's Office and I worked closely on a similar bill last

session, but we were unable to connect beforehand and that bill died. I put in a bill draft request this session to make certain we would not forget our military members in the service.

In 2006, the Overseas Vote Foundation did a survey following that election. They found it was a difficult election, at best, because of the many late or non-arriving ballots and sample ballots. Many service members missed the registration or missed the opportunity to vote. The Foundation said we needed to work on fixing this problem.

The results are still out on the 2008 Election, but from what I have heard from active-duty members who voted in the last election it did not improve dramatically. That is a tragedy, especially for Nevada voters, when you consider how close some of our elections were.

In the 2007 Legislative Session, I inherited a bill someone else had proposed and got a call the night before the bill was to be heard asking me to cover it. I knew nothing about overseas voting nor had I served overseas in the military, but I knew that even voting stateside was difficult when I was in the military. We took that bill and, with the help of Larry Lomax from Clark County, Matt Griffin from the Secretary of State's Office, Senator Horsford, and others, amended it to make a bill that was workable at that time. It was a bill we thought addressed the overall gist of the problem and corrected some of the antiquated language in the Nevada statutes. In the rush during the final days of the session, the bill was pushed aside. It was one bill we immediately said had to be readdressed.

Our purpose here today is simple. I am not the elections expert; there are many in the audience who are election experts. I want to leave it to their expertise to make this work for them. I want to make certain military members and their families, if those families are deployed with them, have the opportunity to vote and have the opportunity to take part in the process as though they were here in Nevada. We are open to any amendment to this bill that makes the job easier for the county and the state to count those votes and ensures fairness. I want to focus on three things. We need to: make voting simple; make the Nevada voting process progressive; and make it possible for our military members to exercise their right to vote—one of those very rights they are protecting each and every day. If we can accomplish that, we will do right by this bill.

With me today is Lt. Colonel Jeff Mark. Lt. Colonel Mark just returned from a year-long deployment in Iraq. He was overseas for both the primary and general elections last year. When I ask service members how hard it was to vote,

probably one out of every three veterans or active duty members will say, "It was a piece of cake." Two in every three will tell you stories, and so will Lt. Colonel Mark, about the difficulties that they had.

Do not assume that Lt. Colonel Mark was in one of those far-flung outposts in the caves of Afghanistan or in Iraq. He was in and around Baghdad during most of his year of deployment, so this is not an atypical situation.

**Jeffrey Mark, Lt. Colonel, Nevada Army National Guard, 140th Military Police Brigade Liaison Detachment:**

My unit just got back from a one-year deployment to Iraq. We were stationed in and around Baghdad. That deployment began on or around Valentine's Day last year and lasted until the middle of this January, so we had experience with both the primary and general elections. It was a good thing that we were a very small unit from Nevada, because the issues we had to deal with—just trying to get people to understand what the process was—were very difficult. We wanted to do our jobs overseas, and we also wanted to take part in the voting.

Initially, we hit theater in April, so none of my unit was involved at any point with the primaries, as we did not have a physical address overseas. They were taking our unit and creating a joint task force for detainee operations, so during that time they were moving us from building to building. The postal folks at Camp Victory had our personal mail going to about six different units. For about the first two months, it was tumultuous trying to get mail even from our homes, so taking part in the primaries was a very difficult task for us. That continued until the general election. Just prior to that, the Voting Assistance Officers—which happened to belong to other units—started demobilizing, and new individuals started arriving to the theater. Those Voting Assistance Officers had to be trained, had to learn the system, and had to learn what units were located where. As soon as they got that settled, the units were either demobilized or were moved to other locations to support the Global War on Terrorism.

My unit had 13 soldiers from Nevada with me. Six of us were able to vote, and that was like "pulling teeth." After the election, we found that the majority of our ballots were actually sent to other units that had the same "140" or "140th" designator. Those ballots just sat there; no one knew what to do with them. As a result, many soldiers did not have a chance to vote in the election.

We are asking this Committee and the men and women of the State of Nevada to see this through the eyes of the soldiers. We are out there defending the

freedoms that this country so enjoys. One thing we would like to do is know that our vote counts and that we have a say about who we select to represent us in the fight against terrorism today, and into the many millennia when we may be doing this. We want to know someone is out there looking out for our benefit. Thank you for listening to me and taking time to hear the stories about the voting issues we had while deployed overseas.

**Chair Koivisto:**

Thank you for being here and sharing your experiences of trying to vote. You are over there protecting our right to vote, and the difficulties you had indicate pretty strongly that we need to fix something. Are there questions from the Committee?

**Assemblyman Horne:**

I have a question on section 13. It mentions citizens who have never resided in the United States but want to use their parents' address. In what scenario would that occur? I am a military brat, though I never served abroad. How does that work? I understand that there are children who are born overseas, and I have friends who grew up in Europe and are U.S. citizens. How is this going to work where they have a parent here and want to use that address so they can vote?

**Tim Tetz:**

I met with several of the county clerks, and there might need to be a couple of changes with section 13 to be certain we are not suddenly letting someone in the back door who should not get a chance to vote. As you note, it is intended to allow that young man or young woman who grew up as a military brat and never returned to the United States to be able to put down roots in Nevada. That individual could say, "My parents are Nevadans and are registered voters in Nevada. Please let me use their address for voting purposes until I have a chance to come back to the States." Section 13 is attempting to keep that option open so we do not disenfranchise those family members who are in that situation, but, as I mentioned to Mr. Glover of Carson City, we are not trying to expand this too much. I am open to some adjustments to make sure this works for the county clerks and registrars, and to ensure the voting procedures work, but I do not want to forget that unique group of people who may never have returned here because they are that military brat who grew up in Germany, Japan, or another location.

**Assemblyman Horne:**

Let us say you are on active duty, do your tour of duty abroad during an election cycle, and use your Nevada address. After your tour is over, you are

reassigned to, say, Fort Benning, Georgia. Would the military allow you to continue your residency even though you are now stationed in another jurisdiction? Can you keep using your parents' Las Vegas address regardless of where you are transferred to?

**Lt. Colonel Jeffrey Mark:**

That is absolutely correct. The Department of Defense allows those soldiers to select their state of residency. When they return to the United States and back to that post, whether it be Fort Pope, Louisiana, or Fort Benning, Georgia, they will still be able to maintain residency within the State of Nevada.

**Assemblyman Hambrick:**

Is there a particular reason that the bill is referring to "armed" services compared to "uniformed" services? There is a slight difference. There are two other uniformed services that may be affected. Is there a reason you stayed with the "armed" services?

**Tim Tetz:**

No, that was language we inherited when the bill was drafted. That language was mostly standard throughout the *Nevada Revised Statutes* (NRS). There is usually the reference to "armed" services in the NRS and not, necessarily, "uniformed" services.

**Assemblyman Cobb:**

Lt. Colonel Mark, where were you stationed when you were at Camp Victory?

**Lt. Colonel Jeffrey Mark:**

I was stationed at Victory Base on Camp Victory, right on Lost Lake.

**Assemblyman Cobb:**

I know Internet access is pretty much available, although it is shared, so one would have to wait in line and every once in a while have access. Having read through this bill yourself, are you pretty confident that this will work, because it is using an email address or something similar that travels with the soldiers, even if they are relocated, say, from Victory to Abu Ghraib or one of the other spots in Baghdad? It seems it really would solve a lot of the issues you were describing such as trying to get physical ballots in the hands of people who oftentimes are redeployed to different sections.

**Lt. Colonel Jeffrey Mark:**

This is precisely correct. The military email system we all use is a "dotmail" account whether it is Army, Air Force, Marines, Navy, Coast Guard, or the

uniformed services such as the U.S. Department of State, Department of Justice, or one of the other, uniformed organizations that are working in the Baghdad area. Those email addresses do follow you regardless of where you go. You log into your local domain through Army Knowledge Online (AKO), and you can get your email regardless of where you are located. It would alleviate a lot of the problems with this situation if there was an email system rather than regular U.S. postal mail through which we could either receive the ballots and/or cast our votes.

**Assemblywoman Gansert:**

In section 3, subsection 5(b), it reads that the registered voter may vote by completing and returning the ballot by "mail...or approved electronic transmission." I want a better understanding of that. I am a bit concerned about someone being able to send that back.

**Tim Tetz:**

The hope in using that language was to leave open the possibility that, when the Secretary of State, the county clerks, and the registrars of voters create methods of electronic transmission that work, we can add those and not have to come back here to get them approved. Lt. Colonel Mark told me they do not have fax machines in one of the biggest facilities in Iraq—the Joint Task Force Headquarters in Baghdad. They have email, so the ability is there to get a portable document format (PDF) form, download it, fill it out, sign it, and either scan it back or put it into an envelope and mail it. That would be one option we wanted to leave open in the future.

**Assemblywoman Gansert:**

The way we identify registered voters now, for the most part, is by signature. To be able to use the ballot, with whatever form of submission, it would be key that there would be a signature that was visible and readable.

**Tim Tetz:**

I absolutely agree. This discussion goes back to the point I made earlier that I am not an election expert. I would like the election experts who are ready to testify here today to tweak this legislation so it will work for them and allow us to be progressive. When something such as an electronic signature is approved and works online, then we could use that, but not until it is ready and certified and signed off by everyone.

**Chair Koivisto:**

Are there further questions from the Committee? [No answer.] Thank you very much, and now we will hear from the county clerks and registrars.

**Larry Lomax, Registrar of Voters, Clark County, Nevada:**

I thoroughly support doing anything we can to make it easier for our overseas soldiers, sailors, and airmen to vote. There are just some items in this bill of which I am not sure. One is the type of electronic transmission. I fully concur that a signature is required. What we found is that Internet transmissions and attachments are much easier to read than faxes. If we can use PDFs and scanned forms attached to emails with signatures on them, that would work very well for us and come across much more clearly than faxed documents do.

In section 3, it appears to me that the intent is that a person who is going to be deployed to some arena in which it is going to be difficult for them to maintain contact with us may request that we send them a ballot ahead of time. It goes on to explain that we are supposed to list all the offices and any ballot questions that we are aware of that are scheduled to appear on the ballot. That language leads me to believe that we have not really prepared our official ballots. Then the person who receives this is going to write in his selections at some point in time and get it back to us.

Although I do not have a problem with that conceptually, there is no time limit listed here. Theoretically, the individual could ask for a ballot six months or eight months in advance, and of course at that time, we have no idea who is going to appear on the ballot, depending upon which election it is. The time between the primary and the general election is extremely short. Although I do not have a problem with this, I think we need to put some time limit in the bill. The primary election right now is only 12 weeks before the general election, and I am not going to know who the candidates are until after the primary has been conducted and then canvassed. Currently, it would be about ten weeks before the general election before I could provide this information, and it is about the same for the primary election.

Theoretically, we could send a form on which service members could write in names. We do normally know the contests that will be on a ballot, without the names, so maybe there would be a procedure where we could just list the contests. We always post these ballots on our Internet website, so if they have access to the Internet, they could find out who the eligible candidates are for the elections. We might be able to work that into the language.

Moving on to section 7, I have a couple of questions here. This expands the federal ballot so that, instead of just being used for special elections, it could be used for all elections, and I do not have a problem with that. There is language currently in the law that says, for them to use this ballot they must have requested an absentee ballot at least 30 days before the election. If they have



not requested an absentee ballot at least 30 days before the election, then they cannot use this federal ballot. I, personally, do not see any reason for that "30-days" language to be in there. It sounds as though when this law was written an assumption was made that a voter was using this form to register to vote, but there is nothing in the law that really says that. It seems to me service members ought to be able to use this form all the way up to the last day to request an absentee ballot, theoretically.

In paragraph 3, section 7, it states that if they only want to vote for federal offices instead of all offices, they do not have to comply with the 30-day requirement. I think the clerks or someone should have a chance to readdress this. I think we could simplify this language and make it a little easier for the folks overseas to vote.

**Assemblyman Horne:**

Typically, when units are getting ready to deploy, they have opportunities to meet with Judge Advocate General (JAG) personnel to get their affairs in order. During that time, is information given to personnel about voting like, "Fill this out to register or to request an absentee ballot," et cetera? Is the election part included in that process?

**Lt. Colonel Jeffrey Mark:**

That is correct, and I can answer that from the standpoint of the Nevada Army National Guard. When we are deploying our soldiers, we go through soldier readiness processing, which covers everything from medical through legal. We go through, speak about, and show them the exact forms that must be filled out for voter registration and the timeline for when they should be receiving ballots for both the primaries and general elections, if that is an election year. We do go through that information, but as we all know, with everything else these soldiers have to think about, paperwork gets lost and so does the memory, sometimes. That is why we have the Voting Assistance Officers in theater to help us. We are covering elections as part of the soldier readiness processing; however, a lot of times it just does not stick. We need some other method included further down the line through the soldiers' deployments to remind them of exactly what needs to be done, give them the forms, and tell them the timeline and when things need to be turned in.

**Assemblyman Horne:**

Referring to Mr. Lomax's comments on the shortness of time between requesting absentee ballots and the election, I was wondering if, on the front end, that was being addressed at all during the readiness process. You

answered part of that question; but, I do not know if it satisfied some of Mr. Lomax's concerns about the timing.

**Chair Koivisto:**

Did that help, Larry?

**Larry Lomax:**

My understanding, when we went through this bill two years ago, was that it is more than a request for an absentee ballot. They can request an absentee ballot and we can send it to them once it is prepared. At least two years ago, the understanding was more that these individuals were going to be out in areas where the ballot was not going to reach them, and they needed to be supplied with what I would call a "blank" ballot ahead of time so they could take it with them and return it to us. Have I misunderstood that? They can always request an absentee ballot; and once it is prepared, we will send it to wherever we have been directed to send it. My understanding of the intent was what I previously described.

**Lt. Colonel Jeffrey Mark:**

Allow me to address that question in general terms. We deploy soldiers into areas where they will be for long periods of time and where they will not have access to the forms to request an absentee ballot. I think what we are looking for is a mechanism so that, if they understand what offices are being contested and who the candidates are for those offices, they can go on the Internet or hand write their choices and return the form. That would be one of the mechanisms we would be looking for. It would just be a general form to list our choices for the contests.

**Chair Koivisto:**

During the readiness part before deployment, is there some way the soldiers could be assigned some kind of code to use on the Internet to access a ballot? Is that doable, if they could remember the code?

**Larry Lomax:**

Once the ballot is created, you can enter your name and your birthday, for instance, into our Internet site and pull up a copy of the contests you are eligible to vote in and the candidates. That applies to a soldier as well as anyone else. The soldiers would then need forms sent overseas to fill out and enter their selections on. Then, theoretically, since we verify things by signature, they could sign the forms and return them to us through a procedure we would develop. I think that could easily be worked out.

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

Like Mr. Lomax, we are looking for ways to make this process work better. The bill just needs a little tweaking, and we are willing to work on it technically and get back to this Committee with amendments that might make the bill work a little easier.

Looking at section 3, line 15, we do not really care if there is some strange situation going on because you are either overseas or you are not. We will try to get a ballot to everyone who is overseas, so I think there are areas in the bill where that language is not needed. We want to make it clear that if you are living overseas, no matter the reason, and you go through this process, we will get you a ballot of some kind.

On page 3 starting at line 28, the language reads, "...receives a regular absent ballot from that voter on or before the date of the primary, general, or special election." We may want to use the language in *Nevada Administrative Code* (NAC) 293.301, subsection 8. That language says that we count whichever ballot comes in first, but that is strictly up to the Committee. That would make it consistent.

Again, in talking to the other clerks, we have the same concerns Mr. Lomax did on the timing. As long as service members have told us that they want to vote this way, at whatever time, is fine with us. We would simply email them their ballot, or send it however they want.

Assemblyman Horne referred to section 13 on page 11, at line 4 where it talks about children whose parents live in the state. We always register the children of service people and they always use whatever address their parents have. The issue comes up with overseas voters. This section is an expansion of that. We are concerned about a scenario, for instance, in which the mother is a U.S. citizen married to someone from a foreign country. They have children who have never lived in the United States, and the parents do not live in the United States any longer. Do we open up voting to them? I think the answer to that could be on line 4 where it says, "Has a parent who has an actual residence in this State." Remember, a "child" could be 50 years old because one parent was a United States citizen and the other may not have been. I think that language might be enough to protect against that situation.

The language on page 12, lines 8 and 9, says "Mail, he shall be deemed to be registered as of the date that the form or the envelope containing the form is postmarked." That could get us into a little trouble. We should make it consistent with present language and say, "the date that the clerk or the

registrar receives it." With electronic voting, it is going to be, hopefully, instantaneous; but, that is an area the Committee may want to look at.

We find it very frustrating and very disappointing when we are sending out ballots to military people and they do not receive them or return them. We want these people to vote and are willing to do whatever it takes to make sure those votes count.

I think this can be done, and let me walk you through how I see it happening. We email a ballot of some kind, or a list of candidates, to someone overseas. He makes his choices and emails it back to us under some secure email address, or different email address, so we know where it is coming from. We already would have assigned the individual a ballot. We would take that original ballot, put it with that request, seal it in an envelope, and give that envelope to the duplicating board. They would duplicate it and we would count the ballot. It is really a pretty simple system, and I think it would go a long way toward solving a lot of problems. If we can be of assistance in a couple of little areas to make it work, we are more than happy to do so. Thank you for bringing the bill forward.

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

I support what Mr. Lomax and Mr. Glover have testified to. The Secretary of State's Office is in support, and I have talked to Mr. Tetz about this and about the intention behind the bill. There just needs to be some cleanup, primarily with what Mr. Lomax and Alan Glover have already testified to. We did a little mock-up of some of the sections we had concerns with, starting with what Assemblyman Horne mentioned in section 13, and including sections 3, 7, and 14. I have talked with Mr. Tetz, and hopefully, we can work out whatever the kinks are in this legislation before the Committee considers this measure again.

**Chair Koivisto:**

Good. If you will work with the registrars and bring us back something, everyone wants to see this go forward.

**Matt Griffin:**

We will be sure to get done whatever regulations Alan Glover referred to.

**Chair Koivisto:**

Thank you. We have other folks signed in, but I am not sure they want to testify.

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

We are here to support the bill and applaud the efforts that the Office of Veterans' Services has put into the creation of this bill. We definitely appreciate the work that the Secretary of State's Office has clearly put into it as well.

We certainly applaud all efforts to support avenues that will further enfranchise voters, including of course, our voters who are overseas whether that be for armed service or by virtue of their employment, which this bill covers.

We find the electronic submission of information to be a particularly compelling portion of this bill because it expands those important opportunities, as you heard from testimony today. Communications are often quite limited for individuals in certain situations overseas, so we think this quite adequately addresses many of the concerns that were presented here.

We have one concern. Section 15 of the bill on page 12 extends the registration time period to those who have perhaps not been overseas or tied up in the turmoil. We thought that might not have been the intent, and after a conversation with Mr. Tetz, we found that indeed was not the intent. He has definitely agreed to work with us on the clarifying language to make sure this is not implying that there is going to be a special class created just by virtue of being a family member but not actually in the turmoil of being discharged or released from employment. There is one example on page 14 which uses a type of language that we are looking to apply to the earlier section which clarifies that the bill does not actually create a special class of people, but instead, responds to the legitimate needs of those individuals who may be overseas or out of the state. Basically, this just stems from our concerns regarding equal protection. Equal protection is paramount especially when it is regarding fundamental rights like civil rights and voting. We are happy to work with Mr. Tetz in clarifying that language.

**Chair Koivisto:**

Are there any questions from the Committee? [No response.]

Lt. Colonel Mark, thank you for coming and sharing your thoughts on this with us. I do not see anyone else signed up to speak. I am glad to see the veterans here supporting this; thank you, gentlemen.

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Does anyone from the public want to testify on this? [No response.] Is there anything from the Committee or anything further to come before the Committee? [No response.]

We are adjourned [at 4:34 p.m.].

RESPECTFULLY SUBMITTED:

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Terry Horgan  
Committee Secretary

APPROVED BY:

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Assemblywoman Ellen Koivisto, Chair

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

**EXHIBITS**

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

**Date:** February 19, 2009

**Time of Meeting:** 3:49 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Guest List