

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

**Seventy-Fifth Session
March 12, 2009**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Harry Mortenson at 3:49 p.m. on Thursday, March 12, 2009, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, 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:

Assemblyman Harry Mortenson, 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:

Assemblywoman Ellen Koivisto, Vice Chair (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Janine Hansen, representing the Independent American Party of Nevada,
Elko, Nevada
Lynn Chapman, State Vice President, Nevada Eagle Forum, Sparks,
Nevada
Rebecca Gasca, Public Advocate, American Civil Liberties Union of
Nevada, Reno, Nevada
George Ross, representing the Las Vegas Chamber of Commerce,
Las Vegas, Nevada
David Schumann, Chairman, Nevada Committee for Full Statehood,
Minden, Nevada
Matt Griffin, Deputy for Elections, Office of the Secretary of State
Gail Tuzzolo, representing the Nevada State AFL-CIO, Las Vegas, Nevada

Chairman Mortenson:

[Roll was taken. Committee rules and protocol were explained.] Vice Chair Koivisto is ill, so when this bill is introduced, Mr. Guinan and I will go to the witness table, and Assemblyman Segerblom will chair the meeting.

Assembly Joint Resolution 1: Proposes to amend the Nevada Constitution to revise the provisions governing a petition for a state initiative or referendum. (BDR C-710)

Patrick Guinan, Committee Policy Analyst:

Chairman Mortenson has requested that I give a brief introduction to the bill and the history of it. As you all know, we are hearing Assembly Joint Resolution 1 today which is a Committee bill that seeks to amend the *Constitution of the State of Nevada* in a fairly simple manner. This resolution proposes to do two things. It requires that the number of registered voters required to file a petition has to be determined at the time the copy of the petition is filed with the Secretary of State pursuant to this amendment to Article 19, Section 1, of the *Constitution*. That is one change.

The next change is that the amendment would strike language that has been found unconstitutional from Section 2, subsection 2, of Article 19 regarding what has commonly come to be known as the "county" rule which required that 10 percent of the registered voters who voted in the last general election had to sign a petition in 75 percent of the counties in the state in order for a petition to qualify. That was found to be unconstitutional awhile back.

This amendment would strike that language and say that, in order for a petition to qualify for the ballot, it would have to be signed by 10 percent of the voters who voted in the previous general election in the state's congressional districts, and there is no mention of the number of congressional districts because as they increase or decrease over the years, it would just apply to whatever congressional districts the state has.

That is all this resolution seeks to do. Most of the members of this Committee who have been here awhile are familiar with both this proposal and the reason it came about. The Twenty-second Special Session was the first time this exact bill was introduced. It was introduced on the Assembly side by the Committee of the Whole and passed through both Houses in that special session. It came back to the 2007 Legislative Session, passed through this Committee, and passed out of the Assembly. It went to the Senate where it was referred to the Senate Operations and Elections Committee. It received a hearing, but did not pass out of that Committee. Had this bill made it entirely through the legislative process in 2007, it would have gone to the people for a vote. However, in 2007 it ended in the Senate and is being brought back this session by this Committee.

Acting Chairman Segerblom:

I thought we passed a bill last session that was a statute that addressed this issue.

Patrick Guinan:

Yes, last session there was a bill and a companion constitutional amendment that were passed. Those created what has come to be called the "county population" rule. That set up a formula whereby the signatures that had to be gathered to sign a petition were based on a population formula by county. The population per county that had to sign the petition was relative to that county's population within the state. So, if a county had a small portion of the state's population, a small number of signers would be required. If the county had a large population, a large number would be required. The statutory measure passed and became law.

The companion constitutional amendment passed, but the statutory portion of it that passed was struck down this past fall for essentially the same reason the prior law was struck down. The courts have found that, especially in western states where the populations are very urbanized with very sparsely populated rural areas, if you set up a geographical distribution requirement, you end up diluting the strength of the vote in the urban areas. You only require a few signatures in the rural areas, but you require a great many more signatures in the urban areas. As a result, the courts have found that basing signature requirements on counties rather than on an equal population distribution violates the equal protection clause, the one man, one vote clause of the *United States Constitution*. The courts have found in Utah, in Idaho, and in Nevada that geographic distribution requirements do not work in states where counties have vastly different population numbers.

Acting Chairman Segerblom:

So, right now, putting a question on the ballot is just based on the number of signatures collected in the whole state?

Patrick Guinan:

That is correct; it is 10 percent of the voters who voted in the previous general election. In 2008, I believe 58,000 signatures were required. Because that statute had been put in place, for the first part of the year there was a distribution requirement, but that has been struck down. So, at present, the signatures of just 10 percent of the voters who voted in the last general election across the state are required qualify a petition for the ballot, and there is no distribution requirement.

Assemblywoman Gansert:

The issue I have with the bill involves the fact that all the congressional districts extend into Clark County. The way this is written, just individuals who reside in Clark County could potentially qualify.

Assemblyman Harry Mortenson, Clark County Assembly District No. 42:

You all have a piece of paper in your folders ([Exhibit C](#)) which shows the voter registration figures for all the congressional districts. You will find that two lines are highlighted; one line is the registered voters in the state, and the second one is the registered voters in Clark County in the Second Congressional District. If you look at those lines, you will see that the voters in Clark County in the Second Congressional District number only 7.7 percent of the total. At this time, only 7.7 percent of the registered voters in the Second Congressional District are in the south. We all have canvassed our neighborhoods talking with people, and usually only 50 percent of them are home. Attempting to gather

enough qualifying signatures in the Clark County portion of that congressional district would be like trying to gather them in a 3-percent area. It makes no sense to even try to gather signatures in the south. Anyone gathering petition signatures would go north to get them in the Second Congressional District.

Assemblywoman Gansert:

I am still concerned about the geographic dispersion, because you would only need to gather signatures in Washoe and Clark Counties, and possibly one other county, to qualify a ballot question.

Assemblyman Conklin:

Why are you choosing to put this in the *Constitution* as opposed to putting it in statute? The *Constitution* provides for the right for initiative petition, but it also provides for the Legislature to make the rules for gathering petition signatures, elections, and everything else. Putting this in the *Constitution* involves a six-year process. You could put it in statute today, and then we would immediately have rules.

Assemblyman Mortenson:

The right to petition is a constitutional provision. In my opinion, the rules governing the process should also be in the *Constitution*. If you have the rules in statute, they can be changed every two years. Maybe that is the desire of some people. The framers of our *Constitution* thought it was very important that the process be stable and that the rules be in the *Constitution* and not in the statutes.

Assemblyman Conklin:

The framers of the *Constitution* did not have this provision in there, did they? This is an amendment to the *Constitution*.

Assemblyman Mortenson:

The framers of the *Constitution* used the county rules.

Assemblyman Conklin:

Was the right to petition put in our *Constitution* in 1864, or was it added at a later date?

Patrick Guinan:

As the Committee policy analyst and Legislative Counsel Bureau staff, I have to make it clear that I in no way advocate either for or against any position. I am merely here to provide information.

In answer to your question Mr. Conklin, I believe Nevada adopted the initiative petition in 1911, so it definitely was not part of the original *Constitution* of the state. It was adopted in the Twentieth Century. I do not know if 1911 is the exact year, but I think that is right.

Assemblyman Mortenson:

Regardless of when it was adopted, there are many people who feel that the right of the people to petition their government and to redress bad laws, if they exist, is very fundamental. I am very happy that this state does have that right. There are some states that do not have that right.

Assemblyman Conklin:

I agree with my colleague from the north. I am concerned about the signature imbalance. One side of the equation is that one county, with a very small percentage of signatures, can block a vote; but the flip side is, the way it is written now, technically, two counties can determine everything. It is similar to the *United States Constitution*. We have two Houses. One House, theoretically, is a direct representation of the population. It is the House of the masses, the House of the people, and representation is based on each district having a similar population. Each vote is weighted by population and each one is equal. The other House, however, is there to protect the minority. It is there to protect the small person; it is there not based on population but based on the states because each state is unique, much like the counties in the State of Nevada. Each county has equal representation; each state has equal representation. Under this plan, that will never come to fruition. The population centers, which are Washoe and Clark Counties, will always dominate. They dominate at the polls, anyway. Anything that gets on the ballot will be determined, theoretically, by Clark County because there are enough votes in that county. If Clark County wants it, Clark is going to get it.

I think we should give consideration to putting something on the ballot for the little guy who may get excluded in the actual voting process because he is only one vote, and 50 percent plus one, when 70 percent of the vote is already down south, is not going to cut it. That is my only concern. I have enormous admiration for my colleague who brings this bill. I know we disagree, but I hope it is always respectful, because I have an enormous admiration for him.

Assemblyman Mortenson:

Your argument is not with me; your argument is with the courts. What I have tried to do with this bill is fill a void. At the present time, all signatures can be collected in one area in the south that is big enough to get 10 percent of the voters. This bill, if it passes, will at least divide the geographic areas into three.

Let me read this from the courts. In the most recent decision striking down the county population rule that the Nevada Legislature passed in 2007, the court expressed "skepticism that the state is compelled to ensure statewide support for a ballot." The court is saying that Nevada does not have to hear from the north or the south or the east or the west. The courts are saying that all the signatures can be gathered from one spot. This bill is at least trying to put them into three spots. This was the best decision of a group of our legislative leaders who were trying to fill a vacuum that existed, and still exists. It was their best solution. I think it was a good solution, so that is why I put it forth.

This Committee will either pass it or not pass it, but we are not saying how the *Constitution* will be changed because that is the right of the people. Only the people can change the *Constitution*. If you pass it, you will be giving the people the right to make a choice—to decide if this is a good system or not. If you do not pass the bill, then you have the void that exists, and we will be stumbling along trying to find some other solution to the problem.

In striking down the Idaho county-based geographic distribution rule, the courts pointed to Missouri. Their geographic locations for signature collection were based on congressional districts and divisions of equal population. The courts said that was a good situation and the way to do it. So, the arguments are not with me or the bill, the arguments are with the courts if you do not like it. This bill does fill the void in the *Nevada Constitution*, and it also gives a little bit of preference to the north in gathering signatures.

Assemblyman Settlemeyer:

Since this bill failed in the Senate last session, does this bill start the process again, so it will take another six years? If, for some reason, we did wish to make a change, could we do it now without having to start the time over? The time is starting over, correct?

Assemblyman Mortenson:

This is starting over, and it will take two passages through the Legislature and a vote of the people to make it constitutional.

Assemblyman Settlemeyer:

I understand the concept that you could almost get all the signatures needed to place an initiative petition on the ballot from Clark and Washoe Counties, because you only need to gather 10 percent from each one of the congressional districts. If we raised that, it would expand the process from the two counties, but it might create too high a burden for people to obtain qualifying signatures.

Assemblyman Mortenson:

The courts are as jealous as I am of the privilege of the people to petition their government. The court has said that "using state legislative districts would make the process exceedingly difficult, because signature collectors and verifiers would need to distinguish between voters in different districts that randomly cross the urban areas." It also quoted the large number of Assembly and Senate Districts in Clark County. The court noted that the manageability concern was rather high, and that it was not a reasonably functional system to use legislative districts because there were just too many of them.

Acting Chairman Segerblom:

For the record, I would point out to those of you from the north that the probability is that we will have a fourth congressional seat in 2012. So if this became law, there would be at least one district that would be totally outside Clark County. Are there any other questions for Mr. Mortenson or Mr. Guinan? [There was no response.]

Assemblyman Mortenson:

Mr. Acting Chair, you are doing such a good job; I am going to let you continue.

Acting Chairman Segerblom:

Ms. Hansen, did you want to speak in favor of the bill?

Janine Hansen, representing the Independent American Party of Nevada, Elko, Nevada:

We supported this bill when it was passed before, and we still support it. We originally supported the 13-county rule, which we think was best for the State of Nevada, so that all counties were legitimately represented. I have been to every county in the state more than once collecting signatures, and it is quite a challenge. But we do not have that option, so what are the options we have? Chairman Mortenson just read about the difficulty of using the Assembly Districts, which we would certainly oppose. Can you imagine trying to collect signatures in Clark County? You would have to have a map, and every time you wanted someone to sign a petition, the person would have to locate where he lived on the map so you could be certain of his Assembly District.

Acting Chairman Segerblom:

We all have to worry whether we are in our districts as we walk door-to-door when we are campaigning, so we understand that objection.

Janine Hansen:

That is right; it would be incredibly difficult. I think it would be a little simpler if we used the State Senate Districts, although that would also be difficult. I do not know if there are any better options. Last session, we suggested to the Senate that the scheme they had passed was unconstitutional, but they were determined to do it. It did pass, and it was declared unconstitutional.

In the meantime, we definitely want something in the *Constitution* because we feel people have the right to depend on one rule that does not get changed every two years. Because this will not be passed for six years, maybe we should do as was done last session and have a concurrent statutory scheme with the same idea that goes into effect immediately. For the next six years, we would have the statutory scheme using the three congressional districts until that becomes part of the *Constitution*, or does not. We would have something in the meantime that would provide for at least some signature gathering in the northern counties. That is what I am recommending, that there be companion legislation as there was last session with regard to this.

We very much support the right of the people to participate in the petition process. We feel that many of the rules that have been passed by the Legislature have made it burdensome and practically impossible for organizations without millions of dollars to get on the ballot. We saw this last year, because not a single initiative petition made it onto the 2008 ballot. The challenges that have been placed by the Legislature have made it very difficult to achieve that goal.

I know you prefer to make all the rules and the laws, and generally, that is the best way to do it. Occasionally, however, when the Legislature becomes unresponsive in a certain way, there needs to be an opportunity for the people to participate through the initiative process. We hope you will pass this constitutional amendment, and we hope that you will pass companion legislation that will put these rules in place immediately so we do not have to wait six years. You could do that legislatively, as has been done before, and I certainly think it would be constitutional.

Assemblyman Conklin:

Ms. Hansen, I am perplexed. On the one hand, I am fairly confident you would prefer that there be some rural consideration on any ballot initiative. I am looking at a document dated August 2008 that tells us what the different signature requirements are in the various states. In Alaska, it is signatures from 7 percent of those who voted in the previous general election in at least

three-quarters of the state's House districts. Alaska is under the jurisdiction of the Ninth Circuit Court.

In Arkansas, the requirement is 4 percent of the votes cast for governor in each of at least 15 of the 17 counties in the state—which is a county rule. In Massachusetts, the rule is that no more than 25 percent of the signatures may come from any one county. Of course, that would be impossible in our state because we have so many people in Clark County. Montana's rule is 5 percent of qualified voters in each of its legislative districts. Nebraska uses 5 percent of the registered voters in 38 of the 93 counties. The rules are all over the place, and many, many states have some geographic rule. Montana and Nebraska have two large counties, they have big, main cities, they have a diverse population spread among the other counties, and yet they are able to maintain their geographic requirements. Why, in your opinion, can we not do that in Nevada? I realize we have to deal with the court, but why is Nevada the only state not allowed to have some representation from people who live in a different circumstance?

Janine Hansen:

Mr. Conklin, I agree with you. I always supported the 13-county rule. If you can find a better scheme that will provide more representation for the rural parts of the state, we will support you. We do not see any better scheme being presented now, so that is why we support this bill. It is better than what we have right now, which is gathering signatures in no counties except Clark. That is the situation right now. If you find a better way which will have more representation for the rest of the state, we will support it. I hope you do. If you can, let me know, and we will be here in support.

Acting Chairman Segerblom:

Are there further questions for Ms. Hansen? [No response.]

Lynn Chapman, State Vice President, Nevada Eagle Forum, Sparks, Nevada:

What I was going to say is, "Me, too." Please do not go back to trying to use the Assembly Districts. It would be a total nightmare to walk around with 42 clipboards representing the different districts. It is not easy gathering signatures, and using congressional districts would be easier than using Assembly Districts.

Acting Chairman Segerblom:

Are there any questions for Ms. Chapman? [No response.]

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

On March 6, this Committee received an email from our attorney, Lee Rowland, with suggested language for an amendment on A.J.R. 1 ([Exhibit D](#)). The amendment is straightforward.

Acting Chairman Segerblom:

Ms. Gasca, have you shared that amendment with Mr. Mortenson?

Assemblyman Mortenson:

I received it at least 24 hours ago, and it is an amendment I agree with.

Rebecca Gasca:

The amendment states that the Secretary of State must determine and publish the set number of registered voters' signatures required to put a petition on the ballot for a given election cycle, no later than January 1 of the year before the year in which the election is to be held. We suggested this amendment because everyone in Nevada is subject to these laws, and the people need to know the rules. It is only fair that the rules be set and established so that everyone, no matter on which side of the political spectrum, is able to participate in a fair and transparent manner. By setting this in the *Constitution*, the individuals will know when they can find out that information, and they will know that the information they are given is the same information being given to everyone else.

In the past, the American Civil Liberties Union (ACLU) has litigated circumstances in which previous Secretaries of State have given one group of individuals a certain number of qualifying signatures and other groups of individuals a different number. That was not only unfair, but was also deemed to be unconstitutional. Putting this in the *Constitution* will address the situations that have occurred in the past, and prevent them from happening in the future. We hope you support this, and we think this is the best way to make the process as transparent and fair as possible.

Assemblyman Conklin:

I am not opposed to understanding the rules; however, no matter what we put in the *Constitution*, it will eventually be challenged and be changed. That is a six-year process. Putting it in statute is a two-year process and also involves a two-year notification to groups collecting signatures that this is now the process—much like any other rule, whether it be a change in speed limit, fees, fines, or whatever. That is standard practice, so I do not see that it is necessarily different as long as there is due notice and the rules are the same for everyone.

If we truly want stability, why do we not add an amendment that says we will require collection of 10 percent of the number of people who voted in the last presidential election, whether it was two years ago or four years ago? What happens is that there is a presidential election, and then there is the gubernatorial election. We know that the presidential elections are far more interesting than our own gubernatorial elections, so there is always a spike in the number of voters. This past election, there were 1.2 million votes, so the number of signatures needed on an initiative petition would be roughly 120,000. Next year, maybe 800,000 will vote, and you would only need 80,000 signatures. There is a cycle that occurs, so why not set that cycle with the presidential election so there would be relative stability in the number of signatures needed?

Rebecca Gasca:

From your question, I infer that you are apprehensive about putting this in the *Constitution* and that you are not disagreeing with the need to have a fair and transparent process. Of course, we are the American Civil Liberties Union, and we are here to address constitutional matters. We do not take the *Constitution* lightly. In many respects, this is one of the most important committees there is in this Body, because the *Constitution* is so difficult to change and because the *Constitution* is the bedrock, the foundation, and the one chance that individuals have to participate at a level they do not otherwise have. The people elect you to be here and address their concerns on a biennial basis, but the *Constitution* is theirs. It is ours; and this is such a fundamental right it needs to be put in the *Constitution* so that it is clear, there is no wavering, and it is accessible.

Assemblyman Conklin:

The fundamental right to petition your government is not at issue here. What is at issue is the process by which that is done, much like an election which is all in statute. The right is preserved, and it always will be. No one here is suggesting we take away that right. What we are suggesting is that the rules, which change from time to time through evolutionary process as the state changes and the state's needs change, now will require a six-year process to change, as opposed to having 63 reasonable people getting together and deciding to change the rules. The right to petition is in the *Constitution*, and that cannot be changed without a vote of the people. What we are talking about here is the process. I respect your passionate plea for the right to petition the government, but that is not the issue. What we are talking about here are the rules of petition.

Rebecca Gasca:

I apologize if I did not adequately answer the question. What this seeks to do is adequately notice and ensure that everyone is subject to the same requirements on a consistent, continual basis. That is important primarily because of the implications of our citizens' ability to address, in a fair and consistent manner, the whole legislative Body and the different laws that Body may enact. We think this language needs to be in the *Constitution*, because it is subject to a higher level of scrutiny.

Assemblyman Conklin:

Should I put the speed limit in there as well? That would make it fair and consistent.

Acting Chairman Segerblom:

You do not have to answer rhetorical questions. Are there any other questions for Ms. Gasca? [No response.]

George Ross representing the Las Vegas Chamber of Commerce, Las Vegas, Nevada:

The Las Vegas Chamber of Commerce supports A.J.R. 1.

Acting Chairman Segerblom:

Are there any questions for Mr. Ross? [No response.] All right, Mr. Schumann, and might I remind you that you do not have to repeat things that have already been said.

David Schumann, Chairman, Nevada Committee for Full Statehood, Minden, Nevada:

We support this bill because it needs to be in the *Constitution* and out of politics, which change all the time. It needs to be above the level of politics, and putting it in the *Constitution*, where it cannot be messed with every other year, is absolutely necessary. In section 1, subsection 2, you see the number of registered voters required to file the petition must be determined at the time a copy of the petition is filed with the Secretary of State. That is critical. There seems to be ill will toward petitions among some members of the Legislature who will go to some lengths to stop petitions. Language concerning the number of registered voters required needs to be in the *Constitution*, and the court has come up with a way that appears to be fair. We can put that language in now, and then, if there are a substantial number of people who want to change it, fine. They can write a petition and go out and get signatures to change it. But they agreed to this, and until we get a different version from the people, why do we not just go with it and let it be?

Acting Chairman Segerblom:

Are there any questions for Mr. Schumann? [No response.] All right, Mr. Griffin, will you come to the witness table, please?

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

I signed in in support of this legislation because there is the absence of a standard in Nevada law. Our Office echoes some of the concerns mentioned by Assemblyman Conklin with respect to representation in the rural counties and those counties other than Clark County. That being said, I did request to speak to the Committee on the proposed amendment today. This amendment was also proposed in a similar bill in the Senate. It is our Office's belief that this kind of requirement is not a constitutional-type of requirement. For the record, our Office has no problem complying with the request from the ACLU, and it was agreed on record in the Senate that we will do everything we can to get those numbers posted by January 1 of the year before a petition would be circulated. The fact remains, and is highlighted best in Minnesota where one election is still up in the air, that you have elections that sometimes go into mid-January and February because of recounts. In the case of a recount, our office, through no fault of our own and because of people exercising their right to challenge elections, would be in violation of the *Constitution*. What we agreed to with the Senate, and are more than happy to agree to here with this Body and with this Committee, is to promulgate regulations as soon as practicable at the close of the canvass of an election. So, our Office will post those numbers within a very short time period. We agree with Mr. Conklin's testimony today that this type of measure does not belong in the *Constitution*.

Acting Chairman Segerblom:

So, you are saying that you prefer a specific date, when you have to identify the number of signatures, to be in statute as opposed to being in the *Constitution*?

Matt Griffin:

That is correct; in statute or in regulation—whatever the Legislature deems to be the more appropriate place. We have agreed with members of the Senate Legislative Operations and Elections Committee that we will promulgate regulations if no statute is put forth. However, we want to make certain that we are not committing to a date-certain when we do not know when an election is going to be concluded. This last year, we still had issues in Washoe, Lyon, and Douglas Counties that continued until the very end of December, so announcing the number of voters on a statewide basis, when we just finished the election literally one week beforehand, is something we do not want to be constitutionally bound to do.

Assemblyman Mortenson:

I was unaware of this problem when I indicated I was in favor of the ACLU's amendment. I think it is a good amendment, and maybe we need to sit down and negotiate it. If it will impede this, and the Secretary of State says he is for this bill without the amendment, then I prefer not to accept the amendment at this time. We can hash it out later.

Acting Chairman Segerblom:

Are there any questions for Mr. Griffin? [No response.] Is there anyone else who wishes to testify in favor of the bill? Is there anyone who wishes to testify against the bill? [No response.]

Gail Tuzzolo, representing the Nevada State AFL-CIO, Las Vegas, Nevada:

I am not sure whether I am against the bill or for the bill.

Acting Chairman Segerblom:

We call that neutral.

Gail Tuzzolo:

It is not neutral, either. I really think we do need some kind of geographic distribution. It does not seem in the right spirit of a citizen's ballot initiative without that. Mr. Conklin's idea concerning making it a different, more comprehensive geographic distribution is where we ought to go with it rather than putting this particular geographic distribution in the *Constitution*. I would like to add that it is not an easy job to put a question on the ballot, but it is not all that difficult. I ran the minimum wage initiative a couple of years ago and a couple of others a few years ago, and we always collected signatures in every county because we wanted to say that the citizens throughout the state were represented in each particular citizens' initiative. It gives the citizens an education about what the ballot initiative is and that collecting signatures is an important element to qualifying an initiative.

Acting Chairman Segerblom:

Are there any questions for Ms. Tuzzolo?

Assemblyman Conklin:

The last time I looked at these numbers was during the last election cycle. During the last cycle, you could collect all necessary signatures in Clark County because the required number came from the previous gubernatorial election, which had a significantly lower voter turnout than the presidential election. If the number of signatures that are required is moving up and down, but the size of the districts is relatively stable in terms of votes, you are always going to be

dealing with this. In some years, you can collect all your signatures in Clark County, and in other years you cannot. Does that make sense?

Gail Tuzzolo:

As a technician who works to qualify ballot initiatives, whether you are collecting 40,000 or 70,000 signatures does not make that much of a difference. We usually collect over 100,000 signatures because in this state especially, and much more so in Clark County, only approximately 50 percent of the people are registered, maybe a little bit more this year. In the rural counties, a much higher percentage of people are registered. When you are collecting signatures, especially in Clark County, you have to get double or triple what the law says in order for you to qualify. I do not think that the difference between the presidential election year and the gubernatorial election year makes that much difference to me.

Assemblyman Mortenson:

Maybe the gentleman from the Secretary of State's Office can corroborate this for me, but the reason all signatures in the last cycle were obtained in Clark County was because the Supreme Court shot down the county distribution, and when that happened, I believe the Secretary of State said, "Okay, collect those signatures anywhere."

Matt Griffin:

We reverted back to the 10 percent rule with no geographical distribution because the constitutional language was struck down. The statutory scheme of the county population rule was struck down, but we still can use the 10 percent base, statewide, without any county or regional distinction.

Acting Chairman Segerblom:

So, the current law is that you can get all the signatures from Clark County. Is that correct?

Matt Griffin:

Yes, that is correct.

Assemblyman Mortenson:

I would like to go just a little bit further. I understand where Gail Tuzzolo is coming from, and I have feelings in that direction, too, but our state has such a strange population disparity. We have urban areas in Washoe and Clark Counties, but the rest of the state is so sparsely populated. If we try to get representation from those sparse areas, for instance, if we want to let Elko County have a voice, the number of geographic areas of equal population

will be so large that the court will strike it down, saying that we are making it more difficult.

Acting Chairman Segerblom:

As there are no other questions, was that all you had, Mr. Mortenson?

Assemblyman Mortenson:

Let us take a vote. I would just as soon get it over with.

Acting Chairman Segerblom:

Mr. Mortenson, I really think we probably should wait on that, because Mrs. Koivisto is not here. Also, given the proposed amendment, I would prefer we think about this.

[Assemblyman Mortenson resumed chairing the meeting.]

Chairman Mortenson:

We will close the hearing on A.J.R. 1. Is there any other business before the Committee at this time? [There was no response.] If not, we are adjourned [at 4:45 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblyman Harry Mortenson, Chair

DATE: _____

EXHIBITS

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

Date: March 12, 2009

Time of Meeting: 3:49 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
AJR1	C	Assemblyman Harry Mortenson	2009 "Active Voters by Nevada Congressional District"
AJR1	D	Rebecca Gasca	Proposed amendment