

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

**Seventy-Fifth Session
March 17, 2009**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:54 p.m. on Tuesday, March 17, 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:

Assemblywoman Ellen Koivisto, Chair
Assemblyman Harry Mortenson, Vice Chair
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 Ty Cobb (excused)
Assemblyman Marcus Conklin (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Kathy McClain, Clark County Assembly District No. 15
Assemblyman Richard McArthur, Clark County Assembly District No. 4

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Terry Horgan, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Tim Tetz, Executive Director, Office of Veterans' Services
Ronald L. Gutzman, Commissioner, Nevada Veterans' Services
Commission, Office of Veterans' Services
Lee Rowland, Northern Coordinator, American Civil Liberties Union of
Nevada, Reno, Nevada

Chair Koivisto:

[Roll was taken and committee rules and protocol explained.] We will start with Assemblywoman McClain's bill Assembly Bill 231.

Assembly Bill 231: Exempts certain veterans from the requirement to pay any fee established for registration as an uncompensated lobbyist. (BDR 17-998)

Tim Tetz, Executive Director, Office of Veterans' Services:

Assembly Bill 231 is coming to you today because of an issue that was brought to our attention at a legislative summit we held last December with the veterans in Las Vegas. There were over 150 veterans in attendance, and one of them asked a question that caught us off guard: "Do we have to register to be lobbyists?" We asked the Legislative Counsel Bureau (LCB) what the definition was or where the rules would be in the statutes. We were given a very narrow set of rules concerning when a veteran should or should not register to be a lobbyist and how he or she would go about doing that. We informed the veterans that, as long as they were here working with their individual legislators, meaning the Assemblymen or Senators who represented their districts, and as long as they did not say that they represented something like an American Legion Post and its members, they were not lobbyists; they were constituents. However, that is easier said than done. As you know, on Veterans Day, many veterans were here in this building's hallways going about their business. This bill addresses an important group of people who need to have the opportunity to work with you and inform you and proposes that we offer these people a waiver for their nonpaid-lobbyist fees.

I looked up lobbying in the history books. The British claim they had the first lobbyists and that they were members of Parliament working in the hallways and lobbies of the building with other members. The story I was most familiar with was President Ulysses S. Grant and the people who hung around in the Willard Hotel in Washington, D.C. Those people would try to influence him because they knew he went there on social calls.

I learned today that lobbying was actually mentioned in writing as early as 1820, and this information was drawn from President George Washington's letters. In one of his letters he wrote, "When the compromise question was to be taken in the House, Senators were not only lobbying about the Representatives' chambers, but were active in an endeavor to intimidate certain weak Representatives by insulting threats to dissolve the Union." Little has changed since the early 1800s.

Every day when I come to testify before you I have a wonderful group, an honor guard if you will, that stands behind me and supports me 110 percent. I would like to introduce five of them by name and give a little bit of their history.

Joining me today is one of the veterans we often see here—Bob Acheson. Bob served in the United States Army from 1954 until 1959. He told me that he engineered a storage area for cold-weather storage in Alaska. During the period 1954 to 1959, Alaska was barely a state and we were dealing with Cold War flyovers made by Russia. The Army was storing equipment in Alaska in case of an invasion by Russia, and that is where Bob served.

Also joining me here today is Commissioner Ron Gutzman. He currently represents the American Legion and several other veterans' organizations at the Veterans' Services Commission. He was in the United States Marine Corps from 1954 until 1957. While in a control tower in Korea, taking care of night landings and night takeoffs, he earned his high school general equivalency diploma (GED) and put himself through some college courses. He returned to Nevada to work educating our students and taught many generations about math and shared his love for math.

Also from the United States Marine Corps but from a newer era—1966 to 1969—is John Warden. John was in an artillery unit stationed in Vietnam. During the Battle of Khe Sanh, he was in charge of an artillery unit that launched artillery onto the front lines where his brother was serving. He had to deal with that day in and day out.

One of the newer faces in our crowd is Dick Whiston. Dick was in the United States Army from 1968 until 1970 and is a 40-percent disabled veteran because of that.

Finally, we have Gene Keberlein. Gene served in the Air Force from 1953 until 1959. I asked him for information I could use to introduce him to you. He asked if I could tell you about his secret missions. I asked him, "When were they?" He replied that they had been during 1956 and 1958, which was past the deadline for secrecy. The special missions he went on involved flights over the ocean during which he would reach out from the airplane, and using a 50-foot grappling hook, he would grab the weather balloons we had launched out of Japan.

Each of these gentlemen can relate unique stories because of their experiences during their years of service. Bob Acheson can tell you about the tragedy of a protest that took place during his son's funeral. He lost his son and then had to deal with his grandchildren and help them overcome the effects of that protest.

Ron Gutzman is a renowned expert on concurrent receipt. Disabled veterans' taxes and retirement checks might be federal issues to you, but Ron has walked these halls for over six sessions now and can tell you interesting facts from his perspective.

John Warden comes to us from California and is constantly holding my feet to the fire saying, "Tim, we can do better by veterans' education benefits." He is always saying, "Tim, the fiscal notes, the fiscal impact on this is terrible. We have to fix this."

Dick Whiston, as I said, is a disabled veteran and can give us his unique perspective on life as a 40-percent disabled veteran.

Gene Keberlein is the odd duck in the room because he loves this place, and he comes back every session.

These men are all experts in veterans' benefits, and that is why they should be given an opportunity to lobby to all of you. Very few of you have any of these veterans in your district. I cannot get veterans from each of your districts to come up here and tell you about these things or tell you about the complexity of veterans' issues. It is these people who, on their own time, are here day in and day out volunteering their time to serve all 339,000 veterans. That is why it is important to pass this bill.

I asked a mentor of mine why this bill should pass and why we should not give everyone special privileges. He said, "Tim, it is because these men and women who served in the military served their country. They sacrificed for their country and we owe it to them." I would take it one step further. There is a fiscal note on this bill that says it would cost you \$400 if we suddenly waive these fees. I would say that you are not going to lose the \$400, but rather, lose the ability to be informed by these experts on what veterans are all about. You owe it to yourselves and to all the veterans, hopefully, to pass A.B. 231.

Assemblyman Horne:

The only issue I have is that the bill reads "Armed Forces of the United States" or the "Nevada National Guard." We have Nevada citizens who serve in guard units or reserve units in other states because of their particular areas of expertise. I do not think they should be precluded just because they are assigned somewhere else.

Chair Koivisto:

Can you suggest language to make that work?

Assemblyman Horne:

"Armed Forces of the United States" covers active duty personnel; maybe we could add "any national guard unit of the United States."

Chair Koivisto:

"National guard or reserve unit?"

Assemblyman Horne:

I do not know how many are serving in other states, but I know we have some.

Tim Tetz:

This was just a catchall definition. The *Nevada Revised Statutes* (NRS) often says, "Armed Forces of the United States and Nevada National Guard," and that phrase is thrown into statute. I know Mr. Hambrick approached the veterans before this meeting and proposed language that would read "uniformed services of the United States." If we change the language to "uniformed services of the United States," not only would we be grabbing all the armed forces of the United States but also the reserve units. We would not be excluding anyone from another state, and we would be adding in other uniformed services that have a very vital role in today's readiness.

Assemblywoman Kathy McClain, Clark County Assembly District No. 15:

I submitted this bill because I am on the Nevada Veterans' Services Commission and remembered hearing Tim advise the veterans that they needed to pay the nonpaid-lobbyist fee. The fee is not very much, but it seemed odd to me that we should have our veterans pay that extra fee when they have already paid so much by virtue of having been in the service. I think this bill is a great way for us to honor our veterans and show them that we appreciate them and that we care to hear what they have to say.

Chair Koivisto:

Are there any questions or comments from the Committee? [No response.] All right, we will hear from Ronald Gutzman who has signed in that he is in favor of this bill.

Ronald L. Gutzman, Commissioner, Nevada Veterans' Services Commission, Office of Veterans' Services:

I come here in support of this bill and echo everything Tim Tetz has said. I would also like to emphasize the importance of different people being here. Not one of us who has been in the service is able to answer questions about every issue that comes up. We have veterans with various experiences in the service, and if something comes up in one of these committee hearings, someone will say, "I can speak to that." That is the value of these people. They are able to answer your questions.

On one occasion during my 12-plus years visiting these sessions, there was a bill to get more service officers for the Office of Veterans' Services. Someone asked what a service officer does. So many times that question is answered by a service officer or someone from the Office of Veterans' Services; but when I talked to this Assemblyman and said, "Here is my experience with a service officer," the Assemblyman really understood what a service officer does for a veteran when he gets out of the service. Answering questions like that is where the value of this really comes in. Everything else I had to say has been sufficiently covered.

Chair Koivisto:

Are there questions from the Committee? I do not see any. Do we have anyone else who wants to speak in support of the bill? [No response.] Anyone who wants to speak against the bill?

Lee Rowland, Northern Coordinator, American Civil Liberties Union of Nevada, Reno, Nevada:

I am here to oppose the bill. As with the other veterans' bill we had some issues with, this is an uncomfortable moment in part because I agree with much of what was said. These veterans are folks who have offered everything we can ever ask a human to offer to our country, and we certainly understand the intent of the bill's sponsors in giving benefits to our beloved veterans.

From an American Civil Liberties Union (ACLU) point of view, our role is upholding the *Constitution* and its protections, and in particular equal protection as found in the Fifth and Fourteenth Amendments. Our concern here is that when you offer special benefits based on a status—meaning what you have done in life; what kind of person you are—those present problems in the equal protection clause when you are talking about fundamental rights.

The other bill I opposed created a veterans-only court that had different rules from a court that was not for veterans. This bill creates a lobbying exemption that results in different rules for veterans than for everyone else. What was involved in both those bills is a fundamental right. Here, what is at issue is freedom of speech. The ability to lobby, particularly as an unpaid lobbyist, is, quite literally, the most protected form of speech that we have in our country. Courts have looked extraordinarily carefully at any attempt to regulate that speech, and we believe that drawing a distinction based on what type of person someone is violates the principle of equal protection.

It would be different if there were an opt-out for nonpaid lobbyists due to indigence, but there is not one currently. Being a disabled veteran would absolutely qualify as indigence, so, to the extent that \$20 places a burden on any of the gentlemen here, we believe that they should be able to come and lobby for free. We just believe that right should be extended to everyone based on need rather than based on status. Again, my apologies to the veterans here, and I certainly understand the sponsor's intent with this bill. But we at the ACLU have concerns that when it comes to the most critical freedoms we enjoy, which these veterans fought for, going down this road is problematic under the *Constitution*. Again, this is not because I do not respect veterans; it is because what the *Constitution* tells us is that we do not treat people differently based on how much we like them or do not like them. We see our role at ACLU as being a government watchdog and warning you when we think you may be stepping into that territory, and this is one of those moments.

Assemblyman Horne:

Ms. Rowland, are there not examples of *de minimis* benefits being extended to people? I think this would qualify as a *de minimis* benefit, and I do not see the fundamental right for anyone else that is being intruded upon. You will have to explain where anyone else is being intruded on. That is weak, in my opinion.

Lee Rowland:

When you couple it with the fact that there is no opt-out for being indigent, that would be where the fundamental right would come in. Let us imagine there are two different individuals both of whom are on some kind of public assistance. One is on veterans' disability and the other is unemployed and has no income. Let us assume, for the purposes of my hypothetical, that both of these people want to lobby but do not really have \$20. You may refer to that as *de minimis*, but \$20 may be a lot, especially in this economy, for someone who is unemployed. The difference between those two individuals' ability to have you hear what they want to say is whether or not they were veterans at some point in their lives.

I agree that we may be talking about \$20, a nonpaid-lobbyist fee. I cannot see those as *de minimis* because I see them as First Amendment issues. No matter how minor the \$20 may seem in the grand scale of things, you are creating two different classes of people for whom their First Amendment rights are not the same. It is just a fundamental, black and white issue. We do not think we should be creating classes of people who have different First Amendment rights than others have.

Assemblyman Munford:

What is *de minimis*?

Assemblyman Horne:

De minimis means small, insignificant, low in value, or very minor.

Assemblywoman McClain:

As a rebuttal, this has nothing to do with the cost of a lobbyist badge. This has to do with honoring our veterans and allowing them to have a voice at the table at which we are making decisions. I do not see that this is unfair to anyone else. The large majority of citizen lobbyists are charged that fee because they have very specific issues. A veteran is different, and we owe them that much. It is silly to tell them they must pay \$20, or whatever the fee is. If the fee is

needed only to cover the cost of badges, we could amend the bill to say veterans get a free badge or whatever would work. Again, my point is that this bill has nothing to do with being indigent or the cost. It is our duty to honor them.

ASSEMBLYWOMAN GANSERT MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 231. THE AMENDMENT WOULD BE TO INCLUDE ALL ARMED FORCES.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

Chair Koivisto:

Are there any questions or comments on the motion?

Assemblywoman Gansert:

I would like to thank the veterans for being here. Your input is very critical and you are always welcome here. Thank you for bringing this bill forward.

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

Chair Koivisto:

We have one more bill on our agenda, and that is Assemblywoman Smith's bill, Assembly Bill 232.

Assembly Bill 232: Revises provisions governing the Interim Finance Committee. (BDR 17-810)

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:

We have a simple bill here, and you will notice that no one is here to testify on it. I have left an amendment to this bill with the secretary ([Exhibit C](#)). The bill requires that when someone is not reelected to office in a general election, the individual may no longer serve on the Interim Finance Committee (IFC). The amendment would add the Legislative Commission to that language.

During this past year, in the same month our newly elected Assembly members were serving in a special session dealing with budget cuts, we had an IFC meeting in which people who had not been reelected were serving. It occurred to me how ironic that situation was, and in this particular case, it was much more significant than ever before because we had a serious charge before us concerning budget cuts and that sort of thing.

I found that many of my colleagues were surprised when they realized that such a situation could exist and agreed with me that it needed to be fixed. When working with the Legislative Counsel Bureau in drafting this bill, we talked about the statutory committees—such as Health, Education, and Public Lands—and I felt they were okay to leave as they are. They very rarely meet that late after the election, and they are also not making actual decisions; they are making recommendations. I missed the Legislative Commission, which does act throughout the interim, adopting regulations and making decisions similar to IFC. My colleague from southern Nevada had a similar idea and a similar bill. He signed on my bill, I signed on his bill, and both bills do the same thing. I think it is very straightforward. The law says that the day after you are elected, you are in office—as we have seen in more than one special session. That should mean that when you are not reelected, you should not be able to serve in a decision-making capacity on a legislative committee.

Chair Koivisto:

Mr. McArthur, do you have anything to add to the testimony?

Assemblyman Richard McArthur, Clark County Assembly District No. 4:

We discovered we had the same bill for the same reasons. Mrs. Smith's bill dealt with the IFC, and my bill dealt with the Legislative Commission, so we both signed on to each other's bills.

Assemblyman Segerblom:

I do not see how, constitutionally, people who have not been reelected could serve. The day after the general election the new people step into office. How can the Legislature even put someone on a committee or commission where that person would be exercising legislative authority, when that person is not a member of the Legislature?

Assemblywoman Smith:

I had the same discussion with our legal counsel after the election when I realized this situation had occurred. Because it is in our statute, it can happen. The one thing I did not clarify is that both committees have alternate members who serve if someone has a conflict, is on vacation, et cetera, so those committees are already well positioned to have an alternate step in should a regular member not be able to attend a meeting. The Legal Division clearly said if we do not intend for that to happen, we need to change the law.

Chair Koivisto:

Are there other questions from the Committee? [No response.] This bill seems pretty straightforward.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS
AS AMENDED ASSEMBLY BILL 232.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

Are there any questions or discussions on the motion? [No response.]

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

Assemblyman McArthur:

As a question of procedure, since this also included the language in my bill, I assume that I should not bring it forward?

Chair Koivisto:

Right.

Assemblywoman Smith:

Thank you, Madam Chair, Committee members, and Mr. McArthur. Both of our names are on the bill, and we will both take credit for it.

Chair Koivisto:

All right, do we have anything else to come before the Committee today? [No response.] We are adjourned [at 4:30 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: March 17, 2009

Time of Meeting: 3:54 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 232	C	Assemblywoman Debbie Smith	Proposed amendment