

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

**Seventy-Fifth Session  
March 31, 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 31, 2009, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/75th2009/committees/](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  
Assemblyman Marcus Conklin  
Assemblywoman Heidi S. Gansert  
Assemblyman John Hambrick  
Assemblyman William C. Horne  
Assemblyman Ruben J. Kihuen  
Assemblyman Harvey J. Munford  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom  
Assemblyman James A. Settelmeyer  
Assemblywoman Debbie Smith

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Brenda Erdoes, Legislative Counsel  
Patrick Guinan, Committee Policy Analyst  
Terry Horgan, Committee Secretary  
Cheryl McClellan, Committee Assistant

**OTHERS PRESENT:**

Gary Reese, Member, City Council, City of Las Vegas, Nevada  
Larry Lomax, Registrar of Voters, Clark County, Nevada  
John Wagner, State Vice Chairman, Independent American Party of Nevada, Carson City, Nevada  
Janine Hansen, President, Nevada Eagle Forum, Elko, Nevada  
David F. Kallas, Detective, Director of Government Affairs, Las Vegas Police Protective Association, Las Vegas, Nevada  
Alan Glover, Clerk/Recorder, Carson City, Nevada  
Matt Griffin, Deputy for Elections, Office of the Secretary of State  
Dan Burk, Registrar of Voters, Washoe County, Nevada  
Randy Robison, North Las Vegas, Nevada, representing the City of Mesquite, Nevada

**Chair Koivisto:**

[Roll was taken and Committee rules and protocol explained.] We are going to start today with Assembly Bill 256.

**Assembly Bill 256:** Revises provisions governing the dates for certain elections.  
(BDR 24-713)

**Assemblyman Tick Segerblom, Clark County Assembly District No. 9:**

[As Assemblyman Segerblom presented the bill, a PowerPoint was showing slides ([Exhibit C](#)).] The bill I am presenting today does two very worthy things. It moves the primary elections, which now are held on the second Tuesday in August, a terrible time, to the first Tuesday in June. Second, it would move municipal elections from the odd years, which have very low voter turnout, to coincide with the even-years' elections.

I have one amendment I would ask that you consider. It deals with changing the municipal elections. Since the primary date was moved to August, the voter turnout has been very, very low and I believe that is primarily because who, at least in Clark County, wants to be campaigning or voting in the middle of August? If you moved the primary election into September, you run afoul of the time constraints the registrars and county clerks must deal with. The only other option would be to move the date to the early summer. I chose the first Tuesday in June because that is the same day as the California primary and before school is out for the summer. The Senate has a similar bill that uses the second Tuesday in June, and I would not be opposed to that date, either. Either way, getting the primary election out of August and into the earlier part of the summer would be beneficial for increasing voter turnout, which is what we are all trying to accomplish.

Right now, Carson City, Reno, and Sparks all have their elections in even-numbered years. In southern Nevada, our municipal elections are held in odd-numbered years. So, we have North Las Vegas, Las Vegas, Henderson, and Boulder City all conducting this separate election that costs the county registrar approximately \$1 million. If we could move the elections to coincide with the state and federal elections, we would save southern Nevada government \$1 million every two years. That would be \$5 million every decade, which is a substantial sum of money.

Another issue is voter turnout. As you know, the turnout in municipal elections in southern Nevada is really abysmal. An article in the paper the other day stated that 900 people had voted in one of the city council races in Las Vegas. That is really not an election, in my opinion. If we combined the municipal and state elections in the even-numbered years, we would have a much higher turnout, much greater participation, and much more buy-in between local elected officials and the voters.

An issue I need to discuss concerns the proposed amendment I gave you ([Exhibit D](#)). Municipal elections are being held in Clark County right now, so this would not take effect until the next municipal election in 2011. What I would like to do is move the 2011 election to 2012. That change would have an impact on at least two individuals currently serving in Las Vegas, Mayor Goodman and Councilman Reese. Because they both are term-limited out, if they stayed in office until the new election took place in November 2012, they would be serving beyond the 12-year limit for their terms.

The Legislative Council Bureau's Legal Division said it would always be an issue because the terms cannot be shortened, they must be extended. The way it could work is that the term would expire when it is supposed to expire, which is in May of 2011. Then, the individuals in those seats would be appointed to fill out the gap between May 2011 and November 2012, when new people to fill those seats would be elected. The one-sentence amendment states that anyone whose term expires in 2011 would be appointed to fill the vacancy that would exist during that 18-month period. According to Ms. Erdoes, our Legislative Counsel, that would be perfectly legal and appropriate, and there is existing law to substantiate it. Again, this is a very simple bill whose time has come.

**Brenda Erdoes, Legislative Counsel:**

We researched this situation and there is an old case which says that the Legislature cannot extend a term and create a longer term, such as a six-year or eight-year term, because that is prohibited by the *Nevada Constitution*. You are limited to four-year terms, but we found nothing on point for having an appointment occur to fill these terms to make it work. We believe what you are proposing is very supportable. The case law shows a trend since that very old case, and that is part of what we have based this opinion on. It has become more important to the court to have a continuation, especially in a situation like this where you are making all the elections line up. So, that is our opinion, and we believe that this would work.

**Assemblyman Mortenson:**

Would it be possible for the appointer not to appoint the person currently filling the office and appoint someone else? Not that it would be bad or good, I am just curious.

**Assemblyman Segerblom:**

The way this amendment is drafted, we are the appointer, and we are appointing the people who are in those offices at the time the terms expire. You could have it differently, but the way this particular provision is drafted, we are making that appointment when we pass this law.

**Assemblyman Mortenson:**

So, you are saying the present sitting mayor of Las Vegas will get another year in office?

**Assemblyman Segerblom:**

Approximately 18 months. His term will expire in May 2011, but we would appoint him, assuming he was still there, to serve in that position until the new

election took place. This is always going to happen because anytime you switch election cycles, there is going to be a gap.

**Assemblyman Mortenson:**

And Mayor Pro Tem Reese would also get another 18 months?

**Assemblyman Segerblom:**

Right, he also falls within this situation. I did not inquire with North Las Vegas, Henderson, or Boulder City to see if there is anyone in this situation in those cities.

**Assemblyman Munford:**

I have to be very candid and straightforward with you. You shared this bill with me, and I had the opportunity to share it with some of my constituents. They all said they would be completely opposed to it because they cannot accept the extended terms for the present Las Vegas mayor or councilman. They were very adamant about it. I have to think about this because I pay attention to the voices of my constituents.

**Assemblyman Segerblom:**

It is politics, but the intent of the bill is not to increase anyone's term; it is to try to get out from under this problem of municipal elections in which just a handful of people participate. I do not think that is good for anyone.

**Assemblyman Ohrenschall:**

Last year's primary election in Clark County was either the lowest turnout, or close to the lowest turnout, for a primary in the history of Clark County. It means a lot more when more people can and do participate in elections, so I thank you for bringing this bill.

**Assemblyman Segerblom:**

If you look at the numbers, in August 2008 in Clark County, fewer than 15 percent of the voters turned out to vote in our primary election, which really was unfortunate. I think August is a tough month to ask people to turn out and vote. It is also a tough month to be out walking door-to-door.

**Assemblyman Settlemeyer:**

Do you have any idea why Las Vegas provided such a strange fiscal note for future biennia? They say that the effect for future biennia is \$950,000. I am reading that as a cost. They indicate that they have been unable to calculate the savings.

**Assemblyman Segerblom:**

My understanding was that the current county registrar is going to testify that this change would save \$1 million; not cost \$1 million.

**Chair Koivisto:**

Are there any other questions from the Committee? Seeing none, let us go to the witnesses in Las Vegas.

**Gary Reese, Member, City Council, City of Las Vegas, Nevada:**

I want to read an excerpt from a recent newspaper article about 12 council seats in Henderson. The article states that about \$34 per voter was spent by North Las Vegas to conduct the last municipal election. The figure was so high because of the low voter turnout. "A mere 2,415 residents of Nevada's fourth largest city voted in the 2007 primary, followed by a measly 1,402 in the general election. Total cost: \$130,000."

I am not sitting here today to try to extend my term of office. Following a November election, I know how tough it is to start campaigning—knocking on doors and trying to get people to listen to your message. I really believe that is why we have such low voter turnout. People are tired of voting. They voted in the November election the preceding year, and do not understand why there is another election.

In my district, I get to vote for one municipal judge this election. There are three candidates on the ballot for that position. If one of those candidates does not receive 50 percent of the vote, that means we have to have a general election for that one contest. I spent \$500,000 to \$600,000 to get elected during the last election. I received 87 percent of the vote, but I only got 2,100 votes. Imagine how much that cost per vote. Candidates tell me how tough it is to get people interested in voting, let alone contributing to campaigns. I love going door-to-door, but I hate trying to get campaign funds.

I think it would be prudent of the Committee to look at this bill. Are we going to save money by passing this bill? That is what is important today; not who gets to stay in office, but is it going to benefit the voters? When you represent 140,000 people and only 8 percent of them vote, there must be a reason. I do not know if it is the cycle we are in or the issues we have. I do not know the reasons, but as elected officials, we need to look at the situation. I appreciate what Assemblyman Ohrenschall said about the voter turnout in his election. It is important to me to have people learn the issues and be proud to vote, as we are. We need to listen to our constituents and get them to turn out.

**Chair Koivisto:**

Do you think the voters would accept more mail, more phone calls, and all the other things that go along with elections, if we expand the fall elections to include municipal elections?

**Gary Reese:**

Yes, I really believe they will. Those people who will look at your mailers will still look at them. There are always going to be those few who just dump mailers in the garbage. A lot of people enjoy reading about the issues. They do not like smear campaigns, but they like a good, honest, door-to-door campaign. Those people I visit as I go door-to-door appreciate my visits. I am sure those are the 2,100 people who came out and voted for me. I really do not see it being a problem.

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

Clark County and I fully support this bill. It would save the taxpayers whatever it costs to hold the municipal primary and general elections in the five cities. It is hard to give you an average figure because the way the city or municipal elections work, sometimes people are elected in the primary and they do not have to hold general elections, so it varies from year to year. The average of \$1 million is about right, but it would cost us essentially nothing to add the municipal elections to the state and federal elections.

In this current election, in the five cities, the voters are either voting on one or two contests. That is all it would add to the general election ballot, which in a federal election usually runs 40 to 60 contests. Adding municipal contests would be minimal, and all the money spent on municipal elections would be saved. The county would save money, the cities would save money, and so would the taxpayers. The only issue that would need to be worked out would be what share of the election expense the cities would then pay as they moved their ballots to the federal/state elections.

As to the other part of the bill and moving the primary up to June, we fully support that. A bill in a Senate committee was mentioned that would move it up to the second Tuesday in June. We prefer the second Tuesday in June. We currently have municipal elections on the first Tuesday in June, which is the last week of school. Elections and the last week of school do not mix well, because the rooms we normally use are tied up with parties, graduation ceremonies, testing, and all the events that have an impact on that last week of school. So, the reason we would prefer the second week of June is simply that school is out, parking and rooms are available, and that one week makes an enormous difference for us.

**Chair Koivisto:**

Thank you. Are there any questions for Mr. Lomax? [There were none.] Let us have the people who are in support come forward first.

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

We support this bill for several reasons. One is the primary. My party does not have a primary election because our candidates are elected at county conventions, but for those who have to compete in primary elections, it is easier to have them in June, and I think the second week is probably better than the first week.

A June primary moves that election away from the general election in November. If the primary is in September, early voting for the November election begins six weeks later. If you are a candidate, you must win the primary election first. If you start looking ahead to the general election, you just might lose. After you have won the primary, you need to get other people on board and raise more money. If you have a flyer you want published, you are not going to have that done before the primary is over. The lead time for something like that is generally two weeks, which leaves only four weeks before early voting starts. By moving the primary back to June, candidates have time to raise money and get support.

We also like the idea of filing in March, so it is uniform with our party. One bill had the minor parties selecting their candidates at a different time. I think it is important that we all file at the same time because the news media and different organizations look to see who the candidates are. If our filing is later, our candidates' names are not going to appear, and as a result, they may not get invitations to speak. This way, everything is uniform and we all get a chance at a level playing field. We think this is a good bill. You may want to make an amendment to it, depending upon which Tuesday you choose, but we favor this bill.

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

We are pleased to be here to support this bill. As the dates now stand, a candidate has more time to focus on the primary election than on the general election. The primary elections are really functions of a political party. Oftentimes at candidates' nights, people are confused and wonder why people not on the primary ballot are speaking because they do not understand the distinction.



Right now, we have three months to campaign for the primary and two months for the general election. When you have early voting, you have six weeks to campaign for the general election. It gives a proper focus on the general election for candidates when there is a June primary.

I think the change would be an advantage for groups like mine that prepare and distribute citizen information and voter guides. It is difficult for volunteer organizations to compile all of that information, and it must be done immediately after the primary. When the primary was in September, and especially with early voting, it was very difficult. It was a little better when the primary was moved to August, but the turnout for the August primary was very low. To allow for citizen action and increased participation for those who really want to be involved in the election process, I think a June primary makes sense.

There has been discussion in this Committee about different filing dates, but March is fine for the Independent American Party. We can have our conventions in January or February, and be ready to file our list of candidates in March rather than the previously-suggested date in January, which made it impossible for us.

This bill makes a lot of sense, and so we support this because we think it will increase focus on the general election and increase participation by citizens.

**David F. Kallas, Detective, Director of Government Affairs, Las Vegas Police Protective Association; and representing the Southern Nevada Conference of Police and Sheriffs, Las Vegas, Nevada:**

We are here today in support of A.B. 256. Any piece of legislation that makes the process more cohesive, effective, and efficient from a cost-perspective is beneficial. From our perspective as an organization that is engaged and involved in elections—federal, state, and certainly local—our concern is about the engagement of the citizenry in those elections and making sure the citizens are educated, involved, and that they participate. In last year's presidential election, we also had federal and state elections, and more people became engaged and involved. The people who eventually get elected to those positions, and eventually make decisions that have an impact on us all, provide better public policy when more voters participate. From that perspective, we support the bill.

We also want to look at the bill in terms of what is currently going on in the municipal elections in the City of Las Vegas and in Henderson. The information we have received to date bears out the fact that it is problematic having elections right after major federal elections. There is a peak of interest and

participation in November, and afterwards, people are tired of the process. After being inundated with mail related to the general election last year, people became tired of it and asked when it would stop. That makes them more inclined to throw those campaign mailers into the trash than they may have been in September, October, and November of the preceding year. If they want to be engaged in the process, they will be; but as a regular voter, I ask myself if it is ever going to stop. One year there is a general election and then, four months later, we are right back into it. Before the beginning of the year starts, the signs for the city elections are up and candidates are in our offices talking to us about endorsements. Sometimes they are talking to us about endorsements before the election in November is over. Enough is enough, folks. We need a little bit of time to breathe. From an organization's perspective, and certainly, from an individual voter's perspective, we need a little bit of a break. If, by moving the elections to a time period that is consistent with everything else, we can become cohesive, efficient, and effective, and we get more people engaged, it cannot be anything but beneficial. On behalf of our organizations, we would ask that you support this legislation.

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

Carson City has had municipal elections in November since 1969, and it has worked very well. Our municipal contests last November included those for mayor and two supervisors. The clerk/recorder, treasurer, and sheriff all run in the odd years. I would like to echo Mr. Lomax's comment that the clerks in the state definitely support the June primary. They like that second Tuesday in June because of the issues Mr. Lomax pointed out and because the school buildings are available. Early voting should be convenient for those people who are going on vacation after graduation and coincides with school getting out for the summer. Again, it has worked very well for Carson City now for almost 40 years.

**Chair Koivisto:**

Thank you. Are there any questions from the Committee? [There were none.] One person is signed up in opposition, but that person is not here. Now, let us hear from those who are neutral on the bill.

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

The Secretary of State is neutral on this bill. In our estimation, this is a policy consideration that the Legislature makes. We do have a couple of concerns and have talked with Mr. Segerblom about them. The first one is the legal issues that arise over extending the term of an already-elected public officer. The case our office looked at, although we did not get a chance to fully brief this issue or

get into detail with it, was a 1925 Nevada case. I will leave the legal concerns to the practicing lawyers to make the determination.

A second concern our office has with this bill and, again, these concerns were expressed to the bill's sponsor, is in section 8, and Mr. Lomax spoke to this. With respect to the date of the primary, we urge the Committee to move the primary date to the second week in June.

Another concern involves section 22. What some Senate pieces of legislation are considering is a January filing date for judicial officers and a March filing date for all officers with ballot access, so major and minor parties—the Independent American Party and the Libertarian Party—would all file in March. Everyone who does not have ballot access would file in April. Language in section 22, subsection 2 would create a separate filing date for these city officers in the month of April. We request that the filing dates mentioned in section 22 be consistent with those filing dates in NRS 293.1277, which reads the first Monday in March, so city candidates would be filing when all major and minor political parties file in March. We do not want to create an additional filing period for these offices.

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

I was asked to be here to speak about our experience in Washoe County, where both Reno and Sparks now have elections in the even-numbered years. Reno made the change in 1995; Sparks made the change after the 2003 Legislative Session. Both made the change primarily to save money, but also in order to have higher voter turnouts in their elections.

We almost never got voter turnout in our primaries above the teens in Reno prior to 1995. Voter turnouts were always around 12 percent to 14 percent in those primary elections. Voter turnout in the general elections prior to the move would be 32 or 33 percent. Before Sparks made the change, sometimes the turnout would be 19 percent. The highest we had was a 24-percent turnout, but in the last general election, we had a 78-percent turnout.

It is a little bit hard to track expenses. In the past, Reno sent their staff to our office to do some of the work. We know their costs were well over \$130,000 to \$140,000 per election cycle for the staff that used our office, and that included both the primary and general elections. We charged them 15 cents per voter. Since the change, the highest those cities have paid in any year for a primary and general election together is \$68,000. In general, they pay about \$42,000 or \$43,000. We can identify those figures because of our contract with them. We charge for items that specifically belong to their jurisdictions

such as ballot questions because those items are in addition to the other ongoing costs we have.

Prior to the change, we once charged the City of Sparks \$68,000. Since they changed their elections to coincide with the even-year elections, the charge has been \$13,500. So, there is a substantial savings to a municipal jurisdiction that changes to even-year elections. Voters get the benefit of all the information and the sample ballots. Of course, that is paid for by the county, and we charge the municipalities for only the space used on the facsimile page, plus an ongoing 15-cent charge per voter.

This last year, we tried to calculate what it really would have cost the City of Reno to hold its own election from beginning to end, assuming a 60-percent turnout. Our figures added up to \$801,715. That figure included all staffing, their sample ballots, all their voting locations, plus testing and shipping all of the equipment. As you can see, it is a good thing Reno does not have its own separate elections, and we do not charge them more than we have over the past 13 years.

**Assemblyman Segerblom:**

When contests for city council and the Legislature are both running on a ballot, which is higher up on the ballot?

**Dan Burk:**

The State Legislature is higher than are the city council members. City council offices come underneath non-partisan district offices. In fact, they are pretty far down the ballot, but before the general improvement district (GID) offices.

**Assemblywoman Gansert:**

Do you think the June date versus the September date would have a better turnout? We have been talking about the second week of June, when summer vacation starts, versus after Labor Day.

**Dan Burk:**

I would rather not talk about that. I really do not know which day would be better.

**Chair Koivisto:**

Are there any more questions from the Committee? Is there anyone from the public who wishes to offer testimony on this?

**Randy Robison, North Las Vegas, Nevada; representing the City of Mesquite, Nevada:**

We are in support of the bill, particularly the provision that moves the municipal elections to the fall election dates. Our council and mayor think it would be a good idea.

**Chair Koivisto:**

Does anyone else from the public wish to offer comment on this legislation? [There was no response.] All right, I am going to bring the bill back to the Committee and we will hold it to clarify some of the questions.

We have some bills on work session, so Patrick Guinan is going to lead us through the discussion on them.

**Patrick Guinan, Committee Policy Analyst:**

Committee members, you all have your work session binder in front of you today. The work session we have scheduled includes three bills. I am going to start with Assembly Bill 293.

**Assembly Bill 293:** Makes various changes concerning appointments by the Governor to certain offices within the Executive Branch of State Government. (BDR 18-761)

**Patrick Guinan, Committee Policy Analyst:**

[Read an explanation of the bill from the work session document ([Exhibit E](#)).]

**Chair Koivisto:**

We heard this bill last week. I do not think there were any questions, but we did not vote on it because all of the Committee members were not here. Are there any questions or concerns from the Committee about this legislation?

**Assemblyman Hambrick:**

My primary concern is about the 90-day appointment and that if there was no action, the appointment was automatically rejected. I think that may take some authority away from the Governor, whoever that may be. I would rather see that process reversed.

**Chair Koivisto:**

You mean you would like to have a shorter time frame?

**Assemblyman Hambrick:**

No, the 90 days is fine, but I would want there to be automatic acceptance rather than automatic rejection if there was no action.

**Patrick Guinan:**

I would like to remind the Committee that there was discussion in the Committee to that effect on the day Mr. Anderson presented the bill. The bill's sponsor stated that he understood the concern, but was not friendly to that amendment. It is certainly the Committee's choice, but that was Mr. Anderson's response.

**Assemblywoman Gansert:**

I signed on to this bill because I thought it was a good idea to have some oversight, but the automatic rejection is a problem for me, too. I remember that we did bring it up, and Mr. Anderson does not want that amendment, so I would be opposed to the bill because we did not get that change.

**Assemblyman Conklin:**

Why is it a problem? This is a special committee that can always meet within the 90 days, so what is the objection to having the appointment rejected?

**Assemblywoman Gansert:**

If we are going to have some sort of evaluation process, the committee needs to either approve or reject the appointment, and there needs to be a statement on it. If the committee could not meet or chose to not meet, the appointment would automatically be rejected. The way the bill is written, the process is backwards in that this would not be a preapproval or advanced approval. The person would take office, and then 90 days later that individual could be out of office because the meeting was not held or no decision was made versus screening the nominees upfront, if they chose to do that. I am not opposed to the concept of having some review, but the way this is written seems backwards. I know we had testimony or questions to that effect when Mr. Anderson was here, too.

**Chair Koivisto:**

Would it give you some degree of comfort if there was language put in the bill to require the committee to meet within 90 days of the date of an appointment?

**Assemblywoman Gansert:**

There still needs to be a conclusion. The committee must accept or reject the nominee versus an automatic rejection. I still think this process should be front-loaded, and that the candidates who are proposed should be screened in

advance versus allowing a candidate to take the appointment—to start working in the position—and then, 90 days later, get rejected. If you were to look nationally at the process, I believe there must be an approval before the person takes the position. We talked about an interim appointment and that people are appointed in the interim when this type of process happens. I think part of the question concerned who would take the position.

**Assemblyman Conklin:**

I understand where Mrs. Gansert is going, and I do not necessarily disagree. We are not trying to create a hardship on the appointee. The issue is that the Governor does not take office until the first of the year, unlike legislators who take office immediately following our election. We would have a Governor who is not officially in office making appointments that are being approved before he has actually taken the oath of office. The timing is kind of odd, and I see what the concern is. I am not sure how that could be fixed, other than asking the committee to come to a conclusion.

**Assemblyman Segerblom:**

I think it is pretty clear what Mr. Anderson intended—the Governor would appoint the person and that person would hold the position for up to 90 days. This commission, if it does not like the person, does not have to hold a hearing. If the commission wants to confirm the appointment, it can. But the person is already in office, so the incentive would be on the Governor to encourage this Body to vote the person in. If at the end of the 90-day period the commission has not voted to accept the nomination, the person would have to leave.

**Chair Koivisto:**

There was mention made of appointing an interim person to the position. That individual would be paid for up to 90 days, even if not officially in that job. I think there are still some questions about this bill that have not been answered. We will try to get Mr. Anderson to clarify some of the points. We will close the hearing on A.B. 293 and open the hearing on Assembly Bill 79. This bill concerns city elections.

**[Assembly Bill 79](#):** Revises provisions concerning city elections. (BDR 24-486)

**Patrick Guinan, Committee Policy Analyst:**

[Read an explanation of the bill from the work session document ([Exhibit F](#)).] To give the Committee comfort with a few questions that were raised initially, amendments have been proposed. We now have a mock-up of the bill containing amendments suggested by the League of Cities and Municipalities, who were promoting the bill ([Exhibit G](#)). The first proposed amendment would

delete section 1.2(c) of the bill regarding when a governing body can conduct a mail-only election. The second amendment would restore language that was deleted in section 3.4 of the bill which, it turns out, was just a drafting error. The third amendment would add language to section 5.2(b) of the bill to require that the physical posting of election results take place no later than the opening of business on the day following an election.

In the mock-up, you can see that language in section 1, subsection 2(c), about the governing body determining "that conducting a city election in which all ballots must be cast by mail in the best interest of the city" at lines 11 and 12 has been stricken.

If you go to section 3, subsection 4, there is double underlined language in orange that was originally stricken from the law and has been returned in this bill. That was language regarding whose name gets placed on a ballot depending upon who gets a majority of the votes cast in a primary election. That language simply returns the law to the state it was in before this bill was introduced.

If you go to page 4 of the bill, there are (a) and (b) paragraphs in section 5, subsection 2. The (a) paragraph was in the bill originally, and we have added paragraph (b), which states that the election returns, in addition to being posted on a website, which is what the bill initially wanted to do, would have to be posted in a conspicuous place on the outside of the "counting facility, courthouse or city hall no later than the start of business on the day immediately following the election." That language is on lines 6 and 7 of page 4 of the bill.

Those are the three amendments the Committee had suggested it would like to see and the proponents have agreed to. Those are the only amendments suggested to the bill.

**Assemblywoman Smith:**

I have a general question about the "vaults" of the city clerk. The statute reads that it is any place of secure storage "designated by the city clerk." Is it actually the city clerk? Would that individual decide where the vault is designated to be? It seems as though the clerk would have a lot of authority.

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

Carson is not a city, so we do not operate under city law, but this issue has come up in the general statutes. In my opinion, it is wherever the clerk says the



vault is. We just have a cage, and I made a fancy, cardboard sign that says "Vault" and attached it to that cage. So, it is where the clerk says it is.

**Assemblywoman Smith:**

I was thinking the city council would decide. That seems like a really big decision for the clerk to make.

**Alan Glover:**

It is just a practical matter. Wherever you put the vault, it must be secure and locked with a card lock or several padlocks. I believe it is the clerk's decision and not the city council's to determine that location. But the city council gives the clerk the space or the money for the safe or vault.

**Assemblyman Settlemeyer:**

On line 42, page 2, the language talks about "held in a city of population category one or two," and that is new language. What is that?

**Patrick Guinan:**

That is language currently in the law that has been restored. Those are the cities affected by the measure.

**Chair Koivisto:**

It deals with a city's population, I think—a population cap. Mr. Lomax, do you know the answer?

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

You are correct. It is a population cap, but I cannot remember exactly what it is.

**Chair Koivisto:**

I think it deals with the smaller cities. Are there other questions from the Committee on this piece of legislation? I will accept a motion on A.B. 79.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 79.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

**Assemblyman Settlemeyer:**

I am going to reserve the right to change my vote on the floor of the Assembly until I know a little more information.

**Chair Koivisto:**

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY. (ASSEMBLYMAN SETTELMAYER RESERVED THE RIGHT TO CHANGE HIS VOTE ON THE FLOOR OF THE ASSEMBLY.)

Let us go to Assembly Bill 82. This is a really big bill, but the changes and amendments are not all that complicated, so maybe we can get through half of it today.

[Assembly Bill 82](#): Makes various changes relating to elections. (BDR 24-417)

**Patrick Guinan, Committee Policy Analyst:**

Assemblyman Settelmeyer, I will get you the information on the population categories. It looks as though those might be part of city charters. They are not in the *Nevada Revised Statutes* (NRS). Categories one and two are lumped together in the statutes, so I am not exactly sure what they are, but we will find out.

[Mr. Guinan read an explanation of the bill from prepared text ([Exhibit H](#)).] There is a new mock-up of the bill ([Exhibit I](#)) that was produced with the help of our Legal Division, and we have been working on it for the past couple of days. If the Committee is comfortable with me doing this, I am going to go through a digest of the bill provided by the Legislative Counsel section by section and explain what changes have been made. For the Committee's convenience, there is also a section-by-section analysis to this mock-up provided by the Secretary of State's Office ([Exhibit J](#)) that lays out what the bill does. There are also some proposed amendments submitted by Janine Hansen ([Exhibit K](#)), although those amendments, if I understand correctly, were submitted based on a previous mock-up, and I am not certain that they match up with this mock-up. We can work on those as we go through the bill.

Section 1.4 of the bill sets forth requirements for an organizer of a voter registration drive, including registering with the Secretary of State and attending training offered by the Secretary of State. That section of the bill begins on page 4 and runs through page 5. In section 1.2, lines 5 and 6 there is a typo. Section 1.2 currently reads "organizer of a voter registration drive means any person who organizes a voter registration drive pursuant to section 4 of this act." That should read "section 1.4." In lines 7 and 8, section 1.3 reads, a "voter registration drive means the distribution and collection of applications to register to vote pursuant to section 1.4 of this act." There is a missing number

in that section. On line 8 between "of" and "applications," the line should read: "and collection of 10 or more" applications to register to vote pursuant to section 1.4 of this act.

If you will follow me down page 4 to lines 35 through 38 of the bill, there is subsection 3(a) beginning on line 35. It reads "Delivered personally to the county clerk not later than 15 business days after the elector signs the application; or (b) Mailed to the county clerk and postmarked not later than 15 business days after the elector signs the application." The registrars of voters and county clerks testified to this during the last hearing and requested the language be changed from "15 business days" to "10 days" and strike the word "business." So, completed applications to register to vote that are collected pursuant to a voter registration drive must be delivered personally to the county clerk not later than 10 days after the elector signs the application, or mailed to the county clerk and postmarked not later than 10 days after the elector signs the application. I think that is something everyone has agreed to at this point.

**Chair Koivisto:**

Are there any questions or comments from the Committee?

**Assemblyman Hambrick:**

Delivering in ten days and then using a postmark gives someone an advantage. It is almost like cutting a check. Would someone gain an advantage by putting the applications into the mail on the last day compared with those who handed the applications to the appropriate person? I do not know if there is a problem; it is more a rhetorical question.

**Chair Koivisto:**

We have had long discussions on this subject.

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

This is consistent with the way the law was before we adopted that confusing, 3-day rule. I do not really think it gives anyone any sort of advantage. It gives us a clear, easy-to-explain-to-the-voter methodology for determining whether the voter is registered and on what date. I do not see anything unfair about it.

**Patrick Guinan:**

Sections 2, 3, and 4 of the original bill have been deleted. Section 5 increases the deadline for filing written challenges of candidacy from 5 to 15 days after the last date on which a person may withdraw his candidacy. That is on

page 13 of the mock-up. I do not believe there are any suggested amendments to that section of the bill as it is proposed.

Section 6 of the bill has been deleted. Section 7 of the bill provides that election precincts can contain a maximum of 3,000 registered voters, as opposed to 1,500. The Committee may remember that initially the bill proposed to only do that in a county of 400,000 or more. It was decided that we should allow that to be available to any county. Allowing larger precincts would eliminate the need to redraw them between censuses.

**Larry Lomax:**

This is an effort to save the taxpayers money. Right now, the law says precincts are limited to 1,500 registered voters. We have precincts in Clark County that have been carved up into 24 precincts yet, in most cases, they are still all voting the same ballot. Every precinct costs money because we are required to report by precinct and print by precinct. If we can make the precincts bigger, we can save some money, and that is all this is about.

**Assemblyman Segerblom:**

Are you consolidating precincts in the older neighborhoods in Clark County?

**Larry Lomax:**

Everyone within a precinct has to vote the same ballot, so consolidation would usually take place on the periphery, at the edges of the valley, where everyone has the same ballot style. In most cases, it will not make any difference. Remember, when we say we are changing a precinct, that does not necessarily mean we are changing the polling place. We are trying to reduce the number of units we report by. I do not think most voters know what precinct they are in. They know where their polling place is, but we are not talking about changing polling places.

**Assemblyman Segerblom:**

It sounds to me that you are thinking about consolidating precincts, which I have a problem with. We have a voter's history, and it is tough, when combining precincts, to go back and try to target certain voters. Most of us are familiar with every precinct in our districts.

**Larry Lomax:**

You do have a point there, although, when we combine a precinct, essentially, one line will be removed from the middle and those two precincts would become one, so you would be able to track that history. It would take some work, but we can do that.

**Assemblyman Conklin:**

This bill only says that, if a precinct gets larger than 3,000, you must redistrict it, right? I think we are making it too complicated.

**Larry Lomax:**

Right now, the law says if the number of registered voters gets above 1,500, we must redistrict. We are asking to increase that number to 3,000 voters. It is just a financial thing.

**Chair Koivisto:**

Changing the number of voters in a precinct is not going to have an effect on an Assembly district. On your Assembly district map, instead of having 27 precincts, you may have fewer precincts. It may take you another day to walk some of the big precincts, but it is really not any kind of a change.

**Larry Lomax:**

Right now, the state operates with a precinct limit of 1,500 voters. What we want to do is change that limit to 3,000.

**Assemblyman Conklin:**

So the language in the mock-up is deleted twice.

**Patrick Guinan:**

Mr. Lomax, correct me if I am wrong, but at present, you have to redistrict if you have more than 1,500 voters in a precinct. This change would allow for you not to have to redistrict unless you had over 3,000 voters in a precinct. In effect, this allows you to keep your precincts intact longer. Is that correct?

**Larry Lomax:**

That is correct. It is not because it is more work for us. It is because we report by precinct. For instance, we have mail ballots. Every absentee ballot with a different precinct is a different style, because it requires different bar codes and numbers. That costs money when we print those. This change is just a cost savings. It is absolutely transparent to the voter. Nothing changes for the voter except, perhaps, his precinct number, and most people do not know what that is anyway.

**Assemblyman Conklin:**

I am in support of this, Madam Chair.

**Patrick Guinan:**

Sections 8 and 15 of this bill provide that the creation of mailing precincts must be approved by the Secretary of State under certain circumstances. That is on page 17 of the mock-up. What this provision allows is for a clerk to go to the Secretary of State to ask for approval to create a mailing precinct if the clerk has a reason that does not fit within the three categories that already exist in the law.

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

This provision is the result of some issues in Washoe, Douglas, and Lyon Counties during the last election. Votes were not captured during the general election, and even up to two months later the county clerks had to recapture those votes. The question came up about whether the direct recording electronic (DRE) machines could be used to capture those votes because by then, we were no longer connected to a federal race. The situation was never litigated and no lawyers ever became involved, but it highlighted the problem—for instance, if 400 voters voted during the general election on the DRE machines and then an additional 350 voters voted separately two months later. In order to capture those voters outside of a general election, a mailing precinct would be the best way to do that, but we did not have the authority at the time to do a mail election. That is the reasoning behind this amendment.

**Chair Koivisto:**

Are there any questions from the Committee? [There were none.]

**Patrick Guinan:**

Sections 1.6, 9, 11, 12, 14, 20, and 22 of this bill authorize the Secretary of State to establish a system for electors in the state to register to vote electronically. This is repeated language. The first time it appears is on page 6 of the bill at lines 17 through 24. It reads, "If the Secretary of State establishes, pursuant to NRS 293.506, a system to allow persons to register electronically to vote in this State, the county clerk may rely on such other indicia as prescribed by the Secretary of State in making his determination." This language provides that the Secretary of State can set up a system for electronic voter registration and the indicia being talked about is electronic verification of voter registrations.

**Matt Griffin:**

That is correct. It is very close language to what is being proposed to Congress. During the last hearing on this bill, an issue arose about whether we would be using the Department of Motor Vehicles (DMV) database to verify voter information, and that is the intention. There is no capability to register

voters online without requiring they first have a DMV identification of some sort. The way this is proposed, anyone who would register online would have to be in DMV's database in order to use that service.

**Assemblywoman Gansert:**

Because we do not have details on exactly how this would work, I have a problem with it. I talked about this concern during the Committee hearing on this bill.

**Matt Griffin:**

It was intentionally written that way. The intention is for our information technology (IT) staff to form a working committee with Clark County, Carson City, Douglas County, and Washoe County. Currently, there is no way for the state and the counties to exchange data. The IT professionals were going to look at how that exchange could work, and from there we could decide exactly how it would be implemented. At this point, that committee has not met formally. This is an attempt to get ahead of the federal legislation.

**Assemblyman Hambrick:**

I am interested in the security of the system. I am not 100 percent sure even the DMV is totally secure. I would like to talk with your IT people in private, because I have some doubts on the overall security of the system at this point.

**Patrick Guinan:**

Section 10 of the bill provides that if two or more candidates in an election have the same given name and surname and one candidate is an incumbent, that the word "incumbent" be written on the ballot next to the name of the candidate who is the incumbent. Most of the Committee members are familiar with why that provision is in the bill.

**Assemblywoman Gansert:**

Going back to the prior section on electronic voter registration, do you need enabling legislation to create your working group and to work out how you are going to do this?

**Matt Griffin:**

We wrote the enabling legislation so that our office can produce regulations to administer this. We do not need enabling legislation for the committee meeting because that is a working committee we have set up since the Secretary has been in office. These are state IT meetings where they discuss issues like this on a routine basis. We do need enabling legislation for the regulations, but not for the IT meeting.

**Assemblywoman Gansert:**

Could it be written so that if the federal government is requiring this to be available, the Secretary of State could produce regulations to be able to accomplish it?

**Matt Griffin:**

That is a decision for the Committee to make. As far as the federal legislation goes, I read that the bill was introduced last week. If it is anything like what has been discussed in the past, it will say something like, "for all elections in which a federal office is going to be on the ballot, you must allow people to register to vote for that federal office online." I do not know when Congress will move that bill, if at all.

**Assemblywoman Gansert:**

You never know if it will happen, too.

**Assemblyman Conklin:**

We could say that the Secretary of State could have its working group and promulgate regulations on the chance that regulations become necessary because of federal legislation. That way, we are not authorizing you to do it unless we are required to do so. I do not know if the Committee is necessarily ready to have electronic voting, but if it is forced upon us, we certainly do not want to meet in a special session so we can allow you to have regulations. I am just speaking for myself, of course.

**Matt Griffin:**

That is something the Secretary of State's Office would not be comfortable with because that would put the ability for Nevadans to register online contingent on any federal action. The federal legislation could sit there for years or could come out next year. We simply do not know. From our standpoint, the states that have enacted this type of registration—California, Arizona, Washington, Nebraska—now show about 80 percent of their voters registering online. From our perspective, and considering the cost savings and access that people would get to the electoral process, we would like to have our bill independent of any federal legislation.

**Assemblyman Conklin:**

You probably need to say that up front instead of saying that Nevada would be getting ahead of the federal registration. So, you are advocating for electronic voter registration?



**Matt Griffin:**

I apologize if I have misspoken, but, yes, we are and that was why it was originally included in our bill.

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

When this was first proposed, the clerks were a little skeptical because it was new. Our major concern is that we need to be able to capture the signature from DMV and bring it into our files. Other than that problem, this has a lot of benefits. The forms will be nice and neat and typed in. We will be able to actually read the people's names instead of their scribbling. The problem is being able to check against the DMV's database to be certain that the individual is a real person and has a driver's license. I think it is a real improvement over these voter registration drives. If this is worked right, it should be able to save us some money because we will have to reenter all that data. It has some real cost-saving benefits, and I think the voters would like it. As the regulations are promulgated, the Legislative Commission would have the opportunity to review them. From Mrs. Gansert's point of view, that would give you some oversight in how this would work.

**Chair Koivisto:**

Thank you. Correct me if I am wrong, but the only people who would be able to register electronically would be those with either a driver's license or a state ID card.

**Matt Griffin:**

That is correct, Madam Chair.

**Patrick Guinan:**

We are now at section 16 of the bill. Section 16 authorizes the Secretary of State to assess a charge, not to exceed the cost of printing the applications, against a political party or other entity that requests more than 50 applications to register to vote by mail. This is on page 22 of the mock-up. The clerks already have this ability to charge for registration applications, and this allows the Secretary of State to do the same thing.

Section 17.4 of the bill is new language that provides that recruitment offices of the United States Armed Forces are voter registration agencies. That is on page 24 of the bill.

Section 18 of the bill prohibits a voter registration agency from knowingly employing a person whose duties will include the registration of voters if the

person has been convicted of a felony involving theft, fraud, or dishonesty. That is on page 26 of the bill.

Section 19 does the same thing, only with the county clerk appointing a field registrar, so the same felony involving theft, fraud, dishonesty, or knowingly appointing that person would be against the law.

In section 22.2 of the bill is new language providing that a person who registers to vote by mail shall be deemed to be registered on the date on which the application is either postmarked or received by the county clerk, whichever is earlier. This is on page 32 of the mock-up. This addresses the issue of the weird little 3-day window that was causing problems with voter registrations that Mr. Lomax testified to previously. I believe Alan Glover also testified that the clerks and registrars would like to clear this up, and this provision addresses that problem.

Section 23 of the bill amends the deadlines for the county clerks to transmit the number of registered voters in the county to the Secretary of State for primary and general elections. That is on page 33 of the bill.

Then, we get into sections 24, 25, 26, 27, and 28. Those sections all involve increases in penalties, or changes to penalties, for interfering with voters or with the conduct of elections. Those are on pages 33 through 37 of the bill. In the middle of those sections is new language in section 25.2 providing that polling for information from a voter regarding whether that voter intends to vote for or against a particular political party, candidate, or ballot question does not constitute electioneering.

Section 29.3 of the bill requires certain persons to register with the Secretary of State before making expenditures on behalf of a candidate that are not solicited or approved by the candidate. At this point, we are at pages 38 and 39 of the mock-up. Section 29.4 is linked to this, and also requires certain persons, groups, and entities to report certain larger campaign contributions and expenditures. These amendments were added by the Secretary of State in response to concerns raised by the Committee and others in testimony, and I would defer to Mr. Griffin to talk about those changes.

**Assemblywoman Smith:**

I still have questions about section 29.3. Ms. Hansen testified that she had concerns about a person doing something on behalf of a candidate. To me, this says that one person doing one thing would be required to register with the Secretary of State. I still have concerns over that language. It is way too

broad. Ms. Hansen used the example of someone making up a yard sign for someone without the candidate knowing. To me, this language encompasses anything anyone might do and still needs some work.

**Assemblywoman Gansert:**

I have a problem with that section, too. Also, section 29.4 states that a candidate must file a report within two business days if he receives a contribution in excess of \$1,000. That is pretty difficult to do.

**Patrick Guinan:**

The Secretary of State has indicated they would like to add language at line 22 on page 38. "Within two business days" is a requirement that exists only during the 30-day period before a primary or general election. I believe the reason for that two-day period is because you would be right up against an election.

**Matt Griffin:**

That is exactly the reason for that amendment. With respect to section 29.3 and Mrs. Smith's concerns, that is current law. Anyone who makes an independent expenditure now is required to file a financial contribution and expense report (C and E) with our office. This bill would make them analogous to what a political action committee (PAC) has to do in registering with our office before it conducts such activity. If you are a candidate and someone is donating money on your behalf but you have no idea, that could be problematic. Many times people look at the candidate as being the person who is responsible for the expenditure.

There is also the threshold. Comparing this language to what exists in NRS 294A.140, there is no threshold requirement under section 29.3. Perhaps if the threshold requirement of \$100, which is currently in section 140, were in this section, any concern anyone would have about putting a sign in their yard might be negated. If you give more than \$100 without the candidate knowing, you must register first.

**Assemblywoman Smith:**

That does make me feel better, because I still have the concern about how small an effort someone would have to make. I absolutely agree that an individual needs to file if that person is campaigning in a big way to have an impact on an election. I think that needs a little bit of work.

I also want to comment on the "two business days." That is very difficult. If I am working out of town for a few days in October, which is not uncommon,

and I have to go by the date the check was received, that could be a problem. The check gets to my house, and I am not home, yet I have that requirement. I understand wanting to be transparent, but that may be a circumstance absolutely out of our control because of our lifestyles. Most people are not vacationing 30 days before an election, but people often have to work out of town, so how would you handle that?

**Assemblywoman Gansert:**

Going back to section 29.3, which talks about expenditures on behalf of a candidate, it says nothing about expenditures against a candidate. There was a lot of mail against candidates during the last election, and I do not know how much tracking was done on that.

In section 29.4, subsection 2 on line 27 it reads, the candidate "may file the report ... no later than 5 business days...." It is interesting that the "may" is there.

**Chair Koivisto:**

Is there not already something in statute requiring a candidate to establish an account?

**Matt Griffin:**

No, there is not. There is a requirement that any campaign funds that are received must be in a separate account, but there is no requirement in statute that the candidates notify anyone of the existence of an account. You cannot come along, but there is no notification to our office.

Mrs. Gansert, your first point was something we dealt with last session and deals with what constitutes "on behalf of a candidate." That came up quite a few times this past election. There is some guidance from the Attorney General's Office, and some of it boils down to how many people were in the race and the specific language of the flyer. I agree. That is an area in statutory law that does not define exactly what "on behalf" means.

**Assemblywoman Smith:**

It also says, "or group," so, does that mean if I have a group that has formed to do an independent expenditure, it could be on behalf of that group and not on behalf of a candidate. Does it mean the same thing?

**Matt Griffin:**

That is correct.

**Assemblywoman Smith:**

So, that group may be acting on behalf of or against a candidate, but I would be doing this on behalf of the group. It really gets to the same issue, I think, whether it is a group or a candidate. It says "candidate or group" so if a group has formed to advocate for or against a candidate, and I am making a contribution on behalf of the group, it is really saying the same thing: It is the group that is taking the action, and I am making this expenditure on behalf of the group. I think it gets to where you are trying to go, but I still want some kind of threshold.

**Chair Koivisto:**

I have a question about lines 23 through 29 on page 38. The language would require a candidate to report to you that he has an account and where that account is.

**Matt Griffin:**

This would require that anybody who receives money, but has yet to establish an account, would still be obligated to report that money received even though it had not been deposited into a separate account.

**Chair Koivisto:**

Okay. Are there any other questions?

**Assemblyman Horne:**

You said it was already required that candidates must have separate accounts so there is no comingling of funds, but it is not required to report that they have an account. Does this bill provide that you must report that you have an account?

**Matt Griffin:**

No, it does not. The statute says that a candidate must establish an account within seven days of receiving \$100. This bill essentially says that if you have received more than \$100, then you have five days to report that money, whether you have established an account or not. It does not require you to notify us of your account.

**Assemblyman Horne:**

And you would be reporting that before the typical filing period for your contributions received?

**Matt Griffin:**

That is correct.

**Assemblyman Horne:**

So, a brand new candidate gets a \$1,000 check, but has not opened his account yet. The filing date is a few months away, but he still has to report to you that he received \$1,000 even if he has not opened an account yet?

**Matt Griffin:**

That is correct.

**Assemblyman Horne:**

But, if he opens the account, he does not have to tell you he received the \$1,000 until the filing date at the end of the reporting period.

**Matt Griffin:**

Under this bill, he would have to tell us he got the \$1,000.

**Assemblyman Horne:**

This is crazy.

**Chair Koivisto:**

I have to tell you, this two-day period is really an issue. I have to agree with Mrs. Smith.

**Assemblyman Horne:**

Those of us with hectic lives and professions sometimes do not get to our mail until the weekend. When I have a fundraiser, just because I received checks does not mean they are getting deposited the next day, let alone get reported within two days. I pride myself on going online and trying to keep up. I prepare the online C and E reports on a monthly basis so I can keep up and not have to prepare them all a couple of days before they are due, but having to actually report two days later? That will never happen. It is crazy, and I know I said that before.

**Chair Koivisto:**

I think ten days would be a reasonable compromise.

**Assemblywoman Smith:**

This does not take into consideration people who are campaigning in the rural parts of the state, or who are in bigger campaigns, and are on the road. They can be campaigning in different towns and not even get home. That, especially, makes the case that we have to do something about that.

**Assemblyman Settlemeyer:**

I am looking at a map of Senator Rhoads' and Senator McGinness' districts, which illustrates that point very well.

**Assemblywoman Gansert:**

I would not mind if we had a time period in between, or something that was standardized, but to have to track when you receive a contribution and count the days to make sure you are following this, I think we are looking for trouble if the regulations are not cut and dried.

**Matt Griffin:**

This certainly is not something the Secretary of State's Office wants to jeopardize our bill over, but this is a recent trend and the way some states are going. It is certainly not intended to create errors where there are otherwise no faults or bad intentions.

**Chair Koivisto:**

I certainly understand the need for transparency, and I think we all support it, but I think we have to be cognizant of how the time frames are going to affect some of us.

**Patrick Guinan:**

Sections 29.5, 32.2, 32.3, 32.4, 32.5, 33, 33.2, 34.2, 34.3, 35, 38.2, 40, and 41 of the bill develop the circumstances under which you will do electronic filing of C and E reports. Those begin on page 37 of the bill, and I would point out to the Committee that the exceptions to electronic filing, which was an issue brought up by the Committee, are in section 29.5 on pages 38 and 39.

**Matt Griffin:**

I have been referring to the provision as the "opt out" provision. It is an attempt to address some of the discussion from an earlier hearing on the bill regarding those people who do not have access or the wherewithal to file electronically. This would give them the opportunity to opt out of the electronic filing. We would also have a threshold which is \$10,000 and is based on a review. We do not want to capture certain local offices such as the general improvement districts (GID) in the rural areas that typically do not have a lot of money involved in their campaigns. In reviewing some of those reports, \$10,000 is well above what is ever raised for those races, and they could opt out of this electronic filing provision.

**Assemblyman Ohrenschall:**

I have a computer, use email, and many other functions, but when I file my C and E reports, I like to either walk them into Mr. Lomax' office and get a file-stamped copy, or mail them certified mail and have my receipt for certified mail stamped so that I have proof I filed my report. I would like to see online filing be an option even if there was no hardship. I like having physical proof that I filed my documents. If you file electronically, I do not know if you would get that proof.

**Assemblyman Mortenson:**

I agree.

**Chair Koivisto:**

When I renew my Norton antivirus program online, I get a receipt online saying that it has been done. Will this proposed process be set up that way so that we will have physical proof that it was done?

**Matt Griffin:**

That is correct, Madam Chair. Currently, the online filing we have now creates an electronic file stamp on the submission and returns an email to the person submitting it, confirming that the filing was complete and the date it was complete.

**Chair Koivisto:**

Does that help you, Mr. Ohrenschall?

**Assemblyman Ohrenschall:**

I guess so. I am always worried that I would hit "click" and "send" and maybe nothing would come through.

**Matt Griffin:**

Of course, our office would be reasonable in the enforcement. We currently consider any type of legitimate excuse or justification for why a document is late. You can resend or amend your report, and you would not be in violation if you filed an amended report.

**Assemblyman Conklin:**

I would like to offer an amendment to the provisions pertaining to electronic filing so that they go into effect for the next election cycle. We are already in an election cycle. I know we are in a blackout period, but for everyone else not in a blackout period, this is already the next election cycle. People are already raising money. These provisions are not in place and will only come into place



halfway through. There will be questions about what should be included or not, and some of this cycle's C and E reports will be filed online and some will not. I suggest we include language saying that people will be required to file electronically after February 1, 2011.

In January, 2011, the year-end report for the previous election cycle is filed, which is the period just before the general election through the debt-retirement period. That is the last filing period. After that filing, whatever that next day is, would be when almost everyone would have to start filing electronically. That way, an entire election cycle would be filed electronically. It would be a clean break. It would be easy. I realize this would be a delay, but you are probably going to need some time to clean up your system and educate people. There are probably going to be some kinks to work out such as Mr. Ohrenschall's concern. I realize that would be a long time, but I do not think it would be a good idea to make the change right in the middle of an election cycle because it might create more confusion. It could potentially hurt the bill.

**Matt Griffin:**

I am aware of the conversation on this subject and the proposed amendment, but the whole country is moving in this direction. Thirty states require online filing. Whenever our reports come out, this is what we get dinged on. We rank 46th in the country for campaign finance, and this is what they point to every time. We are the only state that is continuing to drop in the national statistics.

There are some kinks, as Mr. Conklin said. If we are looking at working this off the 2012 Election, I will work with our office's expert to make sure that we consider all offices and all cycles of each office so we get an appropriate start date with enough lead time to inform everyone when it is going to go into effect.

**Assemblyman Conklin:**

You could require it a year earlier for those who file annually. Those are people who are not up for reelection. You would capture their whole election cycle. Everyone else, including those who are elected every other year, would start on the next date. You would be capturing entire cycles. Otherwise, that first year of data is going to be a hodgepodge. You are going to have complaints, you are going to have people you did not capture all the data for because some of it would be on paper and some not. There are more things to consider than just making the UCLA Law School happy because they like to rate Nevada last.

**Assemblyman Mortenson:**

I share Mr. Ohrenschall's concern. I will send my C and E report to the Secretary of State, but I do not want to wait for them to send a confirmation back. I have no assurance it will even come back. I am sure it will in almost all cases, but when I pay a bill online, the minute I push a button that says I am transferring the funds, I get a confirmation number. That is the way it ought to be done. When I send my C and E report in, I think I should get a confirmation number instantly, right there, at that time. I hope you can do that.

**Matt Griffin:**

It is our intention to give an instantaneous response back to the person submitting the report.

**Assemblyman Munford:**

So, at this point there is no more paper. It all has to be done electronically.

**Matt Griffin:**

As I understand Mr. Conklin's amendment, this bill would not go into effect until February 2011. Anyone running for an office who would be on the ballot before 2011, would still be filing utilizing paper. In February 2011, filing would switch to all electronic.

**Assemblyman Munford:**

Will what Mr. Conklin suggested be part of the amendment? It is not in the bill now. What is the status of his recommendation?

**Assemblyman Conklin:**

I pointed out to the Deputy Secretary of State that it might be necessary to have such an amendment for this bill to go forward. There might be a few Committee members who are uncomfortable.

**Matt Griffin:**

The Secretary really wants the mandatory online filing. It is a friendly amendment to our office in that situation.

**Assemblywoman Smith:**

I am going to stick with the comments I made when we heard the bill previously. I do not think it should be mandatory. If it were mandatory with an opt-out provision, you would still get 95 percent of the people submitting electronically because they will find it to be easier. I do not like the idea of mandating electronic filing and not giving people the option to opt out.

**Assemblyman Segerblom:**

I disagree. I am with Mr. Griffin. It is time to move into the twentieth century, let alone the twenty-first century. It is not that complicated. We are coming up on a major election cycle with all the statewide offices on the ballot. At least as of February 2010, we should have online filing and some type of three- or five-day window 30 days before an election so we can have some transparency and join these other states. The whole point of this is that we want people to see what we are raising and spending, particularly right around election time. If you do not file online, that cannot happen.

**Chair Koivisto:**

Mr. Segerblom makes a good point. It creates a real backlog of paperwork when we all prepare our reports on paper and send them in.

**Matt Griffin:**

As our budget is currently submitted, the Elections Division will be down 42 percent of its employees. We are expected to post all the C and E reports within 48 hours, and there are about 900 of them. It will be very difficult to do with fewer staff, which I think will further erode any transparency that the existing requirements have created.

**Assemblyman Settlemeyer:**

What percentage of candidates is filing online currently? I am speaking about statewide races and the state legislative offices, not the little offices.

**Matt Griffin:**

We do not have any information with respect to those specific offices, but in the last election, and including everyone who filed with our office, approximately 20 percent filed online electively.

**Assemblyman Settlemeyer:**

Is the reason we are low in the ratings because we are not online or because your database is not searchable? If you had more people in your office, the data could be entered and then we would not have the problem. It is about the fact that the online database would be searchable, is that correct?

**Matt Griffin:**

You are exactly right. The two go hand in hand. Because we do not have the time to input the data by contributor or individual donation, the only way you can search right now is by candidate or party or PAC.

**Assemblyman Conklin:**

We skipped over section 32, which has not been amended by the mock-up. I have some concerns about it, as did my colleague Mr. Ohrenschall. Now, I understand where the Secretary of State is going with it, so I also request we amend that provision. Section 32 addresses what appears to be a loophole in the statute where there is a 60-day window. There is nothing governing how much money a candidate can receive or how much money people can contribute in a city-wide race. This is on page 40 of the mock-up. This is an attempt to clear up what may be a loophole and no one has any jurisdiction to govern it, so I am in support of that. My concern is that a person giving a candidate a contribution is also obligated not to contribute during our blackout period. In most of the other statutes governing this, there is a two-way street. No one can accept donations, but no one can give any, either. If someone gives a campaign donation and someone accepts it, there are two people at fault, not one. Once you take this language out, that would leave legislators and those covered under our blackout period open to a one-sided fault. Not that anyone would accept a donation, but no one should be offering one, either. My suggested language is to accept section 32 as it is written in this mock-up, but add a sentence into NRS 294A.300. That sentence can be found in NRS 294A.310, subsection 2. The sentence states that a person cannot make a contribution during the blackout period.

**Matt Griffin:**

From what I remember of the conversation, we wanted to add subsection 2 of NRS 294A.310 into NRS 294A.100, so that anyone in violation of NRS 294A.100 as a contributor would be liable as well. We would have NRS 294A.100 read the same as NRS 294A.300 and NRS 294A.310. If I recall correctly, the amendment was going into NRS 294A.100 so that anyone who contributes in violation is subject to the same penalties.

**Assemblyman Conklin:**

I chose NRS 294A.300 because if you look at NRS 294A.310, that is the provision governing PACs and caucuses. They have a blackout period, and that is where they put the limitation on the donation. Just to mirror that statute, I lifted that language and put it into our blackout period, which is NRS 294A.300. That way it keeps your amendment clean. Your amendment talks about the limits of contributions and applies the blackout-period responsibilities where they are supposed to be in each of its respective spots.

**Matt Griffin:**

I agree with the amendments Mr. Conklin just mentioned. In NRS 294A.100, did you also want to make someone who contributes in excess of the acceptable amount as accountable as the person who receives it?

**Assemblyman Conklin:**

That is a good point. I would like that, too.

**Patrick Guinan:**

Back to the mock-up, we are at sections 33 and 35 of this bill, which provide the acceptable methods of disposing of unspent campaign contributions or unspent money in a legal defense fund. This portion is on page 56 of the bill. There are some deletions that need to be made because this mock-up did not come out exactly the way the Secretary of State's Office wanted.

Beginning with subsection 4 at line 24, that language is the way someone can dispose of money from a legal defense fund that has not been used. Lines 29 through 36 and lines 38 and 39 would be deleted. The language would then read

Not later than the 15th day of the second month after the conclusion of all civil, criminal or administrative claims or proceedings for which a candidate or public officer established a legal defense fund, the candidate or public officer shall:

- (a) Return the unspent money to contributors; or
- (b) Donate the money to any tax-exempt entity.

That would be it. The rest of the language there would be deleted. That change was agreed to in the last hearing on this bill. Mr. Conklin pointed out that the language was probably a mistake. Everyone agreed that it was a mistake the way it was written, but the language just did not get removed from the mock-up.

Section 34 of this bill requires committees for political action to file an updated form of registration on or before January 15 of each year with the Secretary of State. This is on page 54 of the bill. It changes that filing from a 180-day period to once a year on January 15.

Section 40 of this bill requires the Secretary of State to design a form for each campaign contribution and expenditure report.

Sections 44.1, 44.2, 44.4, and 44.5 of the bill provide that, except under certain circumstances, appointed and elected public officers, other than judicial

officers, must electronically file statements of financial disclosure with the Secretary of State rather than the Nevada Commission on Ethics. There are some changes that need to be made to this section and they begin on page 66.

The Commission on Ethics has been in conversation with the Secretary of State's Office on this issue and has suggested some changes. I will hand out to the Committee an email from Adriana Fralick, general counsel to the Ethics Commission ([Exhibit L](#)). On page 66, in section 44, subsection 3, NRS 281A.500 would be amended to read "Every public officer shall acknowledge that he has received, read, and understands the statutory ethical standards. The acknowledgment must be on a form prescribed by the Commission and must be filed with the Commission." The Ethics Commission has asked that language be added to that subsection to read that it must be filed with the Commission within 30 days of the official taking office and must be re-filed yearly. That change is explained in the third paragraph.

Changes also need to be made in section 44, subsection 4, on page 67. Lines 8 and 9 read, "The Commission shall provide written notification to the Secretary of State of the judicial officers...." You will see that the word "public" has been crossed out. That language referring to judicial officers needs to be deleted throughout that page because there is an agreement between the court and the Ethics Commission that the Ethics Commission does not oversee judicial filings of this type. The judges file with the Administrator of the Courts, and the Administrator of the Courts provides that paperwork to the Ethics Commission. There is no reason the Secretary of State would receive these filings or why the Commission would receive these filings, so they have all agreed to have that judicial language removed.

One more change the Secretary of State has suggested is at lines 34 through 41 in subsection 6 on page 67 where the language reads, "A statement of financial disclosure shall be deemed to be filed on the date that it was received by ..." and it currently reads, "by the Commission or Secretary of State as the case may be." The bill needs to be amended to remove "Commission or" and "as the case may be." So, it would simply read, "...on the date it was received by the Secretary of State." That change would remove the Commission from that section of the bill. The same change needs to be made on page 69, referring to Canon 4I of the Nevada Code of Judicial Conduct at the top of the page at lines 1 and 2. Just delete "...the Commission..." and delete "...Commission or Secretary of State as the case may be," in those subsections. Otherwise, this amendment is clean and changes the filing of financial disclosure statements to the Secretary of State's Office rather than with the Ethics Commission, which was something that was discussed in this

Committee by the Executive Director of the Ethics Commission, Ms. Cafferata, at the last hearing on this bill. It is something I believe all the parties have agreed to.

**Matt Griffin:**

I have nothing to add. Mr. Guinan's synopsis was accurate.

**Assemblywoman Smith:**

Section 44 talks about changing the financial disclosure filing to electronic. I read that language differently. Right now, it says that if we receive annual compensation of \$6,000 or more, we are required to file. Now, it says "he shall file electronically." I read that to mean if I make \$6,000 or more, I have to file electronically. I am not sure this is worded exactly as you intended.

**Matt Griffin:**

For the record, our intention is not to make that distinction. Six thousand dollars is the threshold used in establishing whether you have to file. Then, if you have to file, you have to file electronically.

**Assemblywoman Smith:**

Right; you should fix that.

**Chair Koivisto:**

We have gone all the way through the bill with all the changes, fixes, and corrections. Mrs. Smith has an amendment she would like to offer.

**Assemblywoman Smith:**

I brought this up in our hearing, and I would like to talk to Matt Griffin about having an amendment that requires the office where a candidate files to check that candidate's voter registration status. I have had different registrars tell me they do check, but I would like to make it consistent, so that when a person files for office, the registrar or Secretary of State will check that the person is registered to vote appropriately—such as having switched parties timely. These would be the types of things you have direct control over. I am not talking about any of the issues you would have to research, but just the issues you have control over.

**Matt Griffin:**

I understand what you are saying. As long as we are not required to make sure that the address you gave on your voter registration application ...

**Assemblywoman Smith:**

No, I am just talking about the individual's voter registration status: to check that the candidate was registered timely, switched parties timely, and any of that type of information you would see in your database. I would like to make sure that the registrars are required to verify that information.

**Matt Griffin:**

It is my understanding that does not mean the candidate is not subject to any challenge thereafter. You just want verification of the qualifications to be a candidate as reflected on the registrar's or Secretary of State's databases.

**Assemblywoman Smith:**

Correct. The things you have control over that you actually can verify. So, if someone is not qualified, you can tell that individual at that time that there is some issue—a date, for example.

**Matt Griffin:**

That would be a friendly amendment from my view. The staff in the Secretary of State's Office could perform that function.

**Larry Lomax:**

We currently perform that function right now.

**Assemblywoman Smith:**

That is what I thought, and I know Washoe County does, too.

**Chair Koivisto:**

We are obviously not going to move this bill today. We will have it come back to us with the changes we discussed today.

**Patrick Guinan:**

I am volunteering to work with Matt Griffin. For our next work session on this bill, I will provide a write-up specifically of the amendments that were requested today, separate from the mock-up itself, so we will not necessarily need to go through the entire bill, section by section again. We can just discuss each suggested amendment, point out where it is in the bill, and make sure everyone is happy with it. The Committee can go from there.

**Chair Koivisto:**

Mr. Conklin would like to work with you on this.



**Matt Griffin:**

Thank you, Madam Chair and members of the Committee. I know it is an extremely long bill.

**Chair Koivisto:**

We get tired reading that we are in last place for everything. As candidates, many of us do our own reports, and putting the reports together is not easy. You check multiple times to be certain the numbers are correct so it is really hard to accept that we are in last place or not doing something right, because we are reporting. If this will help lift us out of the basement, that would be a good thing.

Are there any other comments from the Committee before we adjourn? Okay, we are adjourned [at 6:21 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:** March 31, 2009

**Time of Meeting:** 3:54 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 256	C	Assemblyman Tick Segerblom	PowerPoint
A.B. 256	D	Assemblyman Tick Segerblom	Proposed amendment
A.B. 293	E	Patrick Guinan	Explanation of the bill
A.B. 79	F	Patrick Guinan	Explanation of the bill
A.B. 79	G	Patrick Guinan	Mock-up of the bill
A.B. 82	H	Patrick Guinan	Explanation of the bill
A.B. 82	I	Patrick Guinan	Mock-up of the bill
A.B. 82	J	Patrick Guinan	Section-by-section analysis of the bill
A.B. 82	K	Patrick Guinan	Amendments proposed by Janine Hansen
A.B. 82	L	Patrick Guinan	Amendments proposed by Adriana Fralick