

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

**Seventy-Fifth Session
April 9, 2009**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Harry Mortenson at 3:55 p.m. on Thursday, April 9, 2009, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Ellen Koivisto, Chair
Assemblyman Harry Mortenson, 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:

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

OTHERS PRESENT:

Alan Glover, Clerk/Recorder, Carson City, Nevada
Matt Griffin, Deputy for Elections, Office of the Secretary of State
Larry Lomax, Registrar of Voters, Clark County, Nevada

Chairman Mortenson:

[Roll was taken. Committee rules and protocol were explained.] We will open the hearing on Assembly Joint Resolution 5. Patrick, will you explain the bill and our past hearing on it, please?

Assembly Joint Resolution 5: Proposes to amend the Nevada Constitution to authorize the Legislature to convene special sessions of the Legislature under certain circumstances. (BDR C-139)

Patrick Guinan, Committee Policy Analyst:

Assembly Joint Resolution 5 was sponsored by Assemblyman Mortenson. This Committee first heard the bill on March 19. This resolution provides that the Legislature may call itself into special session "on extraordinary occasions" by a two-thirds vote of both Houses. It also stipulates that the Legislature may only address those issues named in the petition calling for the special session and limits all special sessions to 20 calendar days. No amendments have been proposed. As with all constitutional amendment proposals, this would have to pass the Legislature in identical form in this session and again in 2011, and then it would go to a vote of the people in 2012.

Chairman Mortenson:

This bill passed through the Legislature twice in the past and was placed on a ballot for a vote of the people, but the people turned it down. We missed by only 4 percent of the vote. I have a feeling that might change due to current scandals, such as the Illinois Governor trying to sell a United States Senate seat.

In this state, we could not call a special session to remove our Governor from office, but I have a feeling the people may have more of an appetite to pass this the next time they have a chance.

Assemblyman Settlemeyer:

I completely agree with you. I would like to see an amendment that would limit the purpose of such a special session to only dealing with a Governor. Other than that, I really do not think the ability to call ourselves into special session on a whim is necessarily a good thing. I would be against the bill unless it only dealt with an impeachment or a situation of that nature.

Assemblyman Horne:

When an emergency rises to such a level, the Legislature would need to act. Two-thirds in each House would deem it necessary that they come together and act. I do not think we should limit ourselves solely to emergencies regarding a Governor. Some other type of emergency might require this body to do its duty. There would be no purpose in doing it solely for impeachment purposes.

Assemblywoman Gansert:

I am in agreement with Mr. Settlemeyer's amendment. A Governor would recognize if the Legislature needed to be brought into session, as has been done several times lately. But I do think we would have an issue if there was a problem with a Governor, so I would be in agreement with that amendment. Otherwise, I will be voting "no."

Chairman Mortenson:

At this time, I do not think I want to amend the bill. I can understand Mr. Settlemeyer's reasoning, but Mr. Horne has a very good point, too. We are the Legislature, and we make the laws, so it makes no sense that a Governor would have to call us into session during a legislative emergency. The Legislature should be able to call itself into session during a legislative emergency. If there are no further questions, I will take a vote on this measure.

ASSEMBLYWOMAN KOIVISTO MOVED TO DO PASS
ASSEMBLY JOINT RESOLUTION 5.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, GANSERT,
HAMBRICK, AND SETTELMAYER VOTED NO.)

I will close the hearing on A.J.R. 5, and open the hearing on Assembly Joint Resolution 6.

Assembly Joint Resolution 6: Proposes to amend the Nevada Constitution to revise provisions concerning legislative sessions. (BDR C-67)

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read an explanation of the bill from prepared text [Exhibit C](#).]

Chairman Mortenson:

Are there any comments from the Committee?

Assemblyman Segerblom:

I think this change is overdue for a lot of reasons, but primarily because Nevada is growing up. We are talking about an extra 60 days. This would not take effect until 2014, so that is five years away. You know how much difficulty we have now, and in five years we would have that much more growth in population and numbers of bills. I think it is impossible for us to get our work done in the time we have. Legislative sessions every year would be part of growing up, and I think Nevada is at that stage.

Chairman Mortenson:

Mr. Segerblom, this is your bill. Do you want us to amend the bill to remove the additional 60 days of pay?

Assemblyman Segerblom:

Yes. I did propose that amendment and do support it. The pay in odd years would be limited to 60 days, and the pay in even years would be for 60 days.

Assemblyman Cobb:

I think there is merit to having some type of review every year, so I understand the concept behind the proposal for the bill. However, I think this change would make it too hard for individuals, especially in the private sector, to be able to continue to be legislators and serve in this body. I think it is absolutely crucial to maintain our citizen Legislature, which has been a benefit to everyone in the state. We have people from many different and diverse backgrounds living under the laws we pass and experiencing the effects of the laws as well as, sometimes, the unintended consequences. We are able to come back every other year and make fixes to those laws, if need be. So I will be opposing the bill.

Chairman Mortenson:

Are there any other comments from Committee members? I see none.

ASSEMBLYMAN KIHUEN MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY JOINT RESOLUTION 6.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

The motion is to amend A.J.R. 6 so that we are paid 60 days in the odd years and 60 days in the even years.

THE MOTION PASSED. (ASSEMBLYMEN COBB, CONKLIN, GANSERT, HAMBRICK, AND SETTELMAYER VOTED NO.)

I will close the hearing on A.J.R. 6 and open the hearing on Assembly Joint Resolution 16.

Assembly Joint Resolution 16: Proposes to amend the Nevada Constitution to revise the provisions governing a petition for a state initiative or referendum. (BDR C-1240)

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read an explanation of the bill and proposed amendments from prepared text ([Exhibit D](#)).] The Committee will remember that the day we heard the bill, Chairman Mortenson pointed out that it was not drafted the way he had initially intended, so he proposed the two amendments to the resolution I just read.

Chairman Mortenson:

Actually, the Legal Division [of the Legislative Counsel Bureau] made a mistake. I specifically asked that the number of registered voters required to file initiative petitions be determined by the Secretary of State no later than January 1 of the year in which the election would be held. That was what I asked for, but the bill did not come out of drafting that way. Assembly Joint Resolution 16 changes nothing; however, it says that the Secretary of State must determine the total number of signatures required for an initiative petition to qualify for the ballot by January 1 of the year in which the petition would be on the ballot.

The Secretary of State was unhappy about it and explained that sometimes his Office would not be able to do that by January 1, so I talked to Legal about it. Legal said that this does happen occasionally, but if it was necessary, the Secretary of State's Office could give a very, very close approximation of the

number of signatures that would be needed. The important thing is to have the number of signatures determined so that people trying to circulate initiative petitions all get the same number. We heard testimony that different groups were given different numbers in the past. That was the whole purpose of this resolution; to be certain that all groups are treated equally. Are there any questions or comments from the Committee?

Assemblyman Conklin:

The portions that have been put back into the bill are currently in the *Constitution*, but they have been deemed to be unconstitutional by the federal court. By passing this, we are not reinstating the 13-county rule; we are just leaving the current language, as opposed to striking it out. Furthermore, I am not inclined to support this bill. I stand by my prior comments on the initiative petition process being under the Legislature's prerogative—according to the *Constitution*. These things should be in statute and not in the *Constitution*, so I will be in opposition to this bill.

Chairman Mortenson:

It is the pleasure of the Committee. This bill was essentially forwarded by the American Civil Liberties Union, which believes that constitutional matters should be in the *Constitution*.

Assemblyman Segerblom:

I like the concept of having a date and a set number, but I am concerned about the language on page 2, which I think would violate the federal court order.

Patrick Guinan:

The way the *Constitution* is currently written is the language on page 2. That language is technically not in effect, because it has been ruled unconstitutional. It does, at the moment, still reside in the *Constitution* and will reside in the *Constitution* unless someone amends it out. As Mr. Conklin stated, it is not in effect. It has been ruled unconstitutional, and the Secretary of State's Office does not function under that rule. Since it does currently exist in the *Constitution*, Legal just restored the language to the way it would have been had they drafted the bill the way the Chairman asked in the first place. It does not do anything technically to the way the Secretary of State would handle a petition.

Assemblyman Segerblom:

Could we just delete that language?

Chairman Mortenson:

No. We are not changing the *Constitution*. I wanted to do one thing in this bill and that was to add a date certain of January 1. There are several bills proposed this session that will take that language out of the Constitution if they pass, but this bill does not address that problem so the language is still there.

Assemblywoman Koivisto:

I do not believe that dates certain should be put in the *Constitution*. I agree with Mr. Conklin. This should be dealt with statutorily.

Assemblyman Ohrenschall:

I am inclined to support the bill. Whether you like initiatives or do not, everyone should know what the ground rules are, and the rules should not suddenly change.

Chairman Mortenson:

Are there any further comments from Committee members? If not, I will take a motion on the bill.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS
AS AMENDED ASSEMBLY JOINT RESOLUTION 16.

ASSEMBLYMAN MUNFORD SECONDED THE MOTION.

THE MOTION LOST. (ASSEMBLYMEN CONKLIN, GANSERT,
HAMBRICK, HORNE, KOIVISTO, SETTELMAYER, AND SMITH
VOTED NO.)

I will bring this measure back to the Committee and turn the gavel over to Assemblywoman Koivisto.

Chair Koivisto:

Elections, Procedures, and Ethics will come to order, please. We will have Patrick start us out on Assembly Bill 82.

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

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read an explanation of the bill from prepared text ([Exhibit E](#)).] We have a section-by-section summary of the bill provided by the Secretary of State ([Exhibit F](#)). What I propose to do is run through the section-by-section summary and point out where the Committee's concerns have been addressed in the bill.

The first section is section 1, subsection 3, of the bill. The definition of a "voter registration drive" in section 1.3 has been amended to clarify that a voter registration drive is the distribution and collection of ten or more applications to register to vote. This concern was raised during the hearing on the bill and is essentially designed to keep one person who gets a voter registration form from having to deal with voter registration drive requirements.

Sections 2, 3, 4, and 6 have been deleted by amendment from the bill. Those sections were of concern, but they are gone now.

Sections 9 through 19 remain the same. There were no concerns raised about those sections.

I would like to draw your attention to section 22, subsection 2. That language changes the date an elector is deemed to be registered, or to have corrected information in the register, to the date on which the application is postmarked or received by the county clerk, whichever is earlier. This is a change that was made in response to concerns voiced by the registrars and clerks regarding confusion over when a voter sending in a registration by mail was deemed to actually have been registered. Some people discovered they were not registered when they went to vote, so that issue has been addressed in section 22, subsection 2, of the bill.

Section 29, subsection 3, is a new section that has been added. It relates to the registration of people who are not under the direction or control of a candidate for office, or a group of such candidates, or any person involved in the campaign of a candidate or group. In response to concerns of the Committee, the Secretary of State added a \$100 threshold for reporting requirements for those persons. That was at the behest of several Committee members.

Notice that there is a section 29, subsection 3, and a section 29, subsection 5, which indicate that section 29, subsection 4, has been deleted from the bill. That was the 48-hour reporting requirement for campaign contributions during the last 30 days before an election that people had concerns with, so that is gone.

At the request of the Committee, section 29, subsection 5, adds opt-out language to the bill for persons who:

- Do not receive or expend money in excess of \$10,000, and

- Submit an affidavit prescribed by the Secretary of State stating that the person, committee, political party, group, or business entity does not own or have the ability to access the technology necessary to file electronically.

At the end of a lot of these sections, you will see that they take effect on January 16, 2011. All these electronic filing requirements were pushed out to become effective on January 16, 2011, at the request of the Committee. Mr. Conklin raised that concern, so there are quite a few sections where that is in play.

Section 32 prohibits a person from making, or committing to make, a contribution or contributions to a candidate for any state or local office exceeding \$5,000. It also prohibits a candidate from accepting a contribution, or a commitment to make a contribution, in violation of that section. That language was added to the bill in response to a concern raised by Mr. Conklin. That was the language you wanted from *Nevada Revised Statutes* (NRS) Chapter 294A. If you look at the rest of the sections down to section 32, subsection 5, they are all effective January 16, 2011, to conform to the Committee's wishes.

When this bill was redrafted into this proposed mockup ([Exhibit G](#)), pushing those dates out to 2011 meant that some parallel sections needed to be created in the NRS. That is why the bill looks a little different, but it does not change the technical matter of the bill. It just makes some parallel sections in the law.

Section 35 relates to legal defense funds. There was language inadvertently left in a prior iteration of the bill that had to do with campaign contributions. It required any unspent funds raised by a candidate for a legal defense to be returned to contributors, donated to any tax-exempt nonprofit entity, or disposed of in any combination of those methods as provided in the subsection. That addresses a concern that was also raised by Mr. Conklin about the dispersion of a legal defense fund within 15 days after it is no longer needed.

If you remember, section 44, subsections 1, 2, 3, and 4, were amended, and parts of them were deleted in response to concerns from the Administrator of the Courts and the Ethics Commission regarding judicial officers' filing of financial disclosures. So, those portions have been cleaned up and are all listed here.

Also, section 44, subsection 1, amends NRS Chapter 281A to authorize a public officer who is required to file a statement of financial disclosure electronically

with the Secretary of State to submit an affidavit stating that the public officer does not own, or have the ability to access, the technology necessary to file a statement electronically. This language mirrors the language we went over in an earlier section which is an opt-out provision for those who do not have the ability to file electronically. Again, that section is not effective until January 16, 2011.

Section 44, subsection 3, contains another provision that was requested by the Ethics Commission. It requires public officers who submit an acknowledgement of statutory ethical standards to do so not later than 30 days after they first take office and again annually on or before January 15 of each year thereafter while they are in office. That also is effective January 16, 2011. That is all I have to go over as far as amendments to the bill.

Assemblyman Hambrick:

In my notes, I noticed that Mr. Glover had some concerns. Could he come to the table, since he will have to work with this bill?

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

The sections we are interested in, Mr. Hambrick, are fine. Every concern we had has been addressed in the bill.

Assemblyman Segerblom:

In the section defining voter registration drives, I have a question about the limitation of ten voter registration forms. Does that mean anyone who picks up ten forms has to register? During campaign season, a lot of us pick up bunches of them. Our volunteers carry them, and so do we.

Patrick Guinan:

The number "ten" was added by the Secretary of State's Office in response to concerns that originally there was no threshold. They wanted to be able to define someone who is doing a voter registration drive as using "X" number of voter registration applications, and ten was the number they settled on. I am not certain how hard and fast that number is.

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

Patrick is correct. There was no original threshold. This language is very similar to Oregon's. Oregon puts their threshold at two, but we thought that number was a little low. "Ten" was the number we came up with, and your scenario would apply if you were registering voters while on the campaign trail. The requirement that would apply to you is that you would have to receive the training on how to register voters and how to return the applications to the

county clerk. From that point, you could train anyone else in your campaign. They would not have to register or train with the Secretary of State's Office. You would essentially be the registrant with the Secretary of State from your campaign, and everyone else associated with the campaign could sign up voters without registering.

Chair Koivisto:

Does that answer your concerns, Mr. Segerblom?

Assemblyman Segerblom:

So, the only real requirement is that you have to go to the voter registrar's training?

Matt Griffin:

That is correct. We are planning on putting this training online as well as in digital video disk (DVD) form with an acknowledgement from the recipient that he received the training. Once we receive that acknowledgement, that is the extent of it.

For the record, I do not think "ten" is a hard and fast number. That was just the number we came up with that seemed about reasonable to get the groups we could not account for during the last election.

Assemblyman Ohrenschall:

I noticed in the work session document that it addresses the distribution and collection of ten or more of those voter registration forms. Let us say a candidate went to his party office and got a stack of voter registration forms. We like to have them so that we are able to distribute them to the public when we meet someone who says, "My cousin just moved here. He's not registered to vote; can you give me a form." But you do not collect it; you leave it for the individual to mail in. Under this, would you still have to become an organizer and get the training, or would you just be able to get the stack of forms from your county party?

Matt Griffin:

The way the bill is drafted, it would depend on your intent when you get the forms, and we can discern that intent from other information you are required to file such as name, organization affiliation, and how many members are in that organization. That is why we put the number "ten" in the bill. We are not looking to get the people who want to register their coworkers or family members. We are looking for the people who are targeting a geographical area, or a mall, or something like that. Based upon their organization, which they

would have to file with us, we could tell if they are intending to do a voter registration drive or merely registering a friend.

Chair Koivisto:

If you are going down to your party office to get them, the forms have already been signed out.

Assemblyman Kihuen:

If someone from my campaign goes to pick up voter registration forms, he has to go through training, and then you provide the forms to him. Once we run out of those forms and he goes back for more, he does not have to have further training, correct?

Matt Griffin:

That is correct.

Assemblyman Kihuen:

If that campaign volunteer, for whatever reason, is absent that day and we decide to send someone new, does that new person have to go through training?

Matt Griffin:

As long as that person is part of your campaign, that person does not.

Assemblywoman Gansert:

I am still concerned about the electronic voter registration. It still looks as though we are enabling your office to do it versus your getting the approval for what you think is going to work.

Matt Griffin:

It is enabling because, at this point, it would take an interface with the Department of Motor Vehicles (DMV) and the counties to allow data exchange. Our Office would push data to the counties, which we currently do not do. Given the constraints of the session, the counties' information technology (IT) divisions and the Secretary of State's IT division need to determine how that would best be accomplished. So, it is enabling, but the concept of someone who is already in the DMV's database registering online requires legislative approval.

Assemblywoman Gansert:

When we heard the bill originally, I asked whether you could go through the process without preapproval of the end product. I also asked if you could get

together with the parties to start figuring out how it could be accomplished, and bring that back to us. At the time, I thought you said that you could figure out the mechanics without the legislation.

Matt Griffin:

I recall saying we could figure out how to put it into effect without the legislation, because we have the authority under Title 24 to adopt regulations to carry out whatever legislative mandate is contained in Title 24. There is a statute now on the books that says voters can register by computer. That statute was enacted in the early 1980s, so I guess the argument could be made that "registration by computer" did not contemplate online registration because the Internet was not around and accessible in the 1980s. We are asking for a change and expansion of the existing law to provide for online registration, but how that is going to be achieved is a technical question that would have to be worked out with the IT divisions.

Assemblywoman Gansert:

My hope was that you could work out the technical aspects of it, and then bring it back so that we could feel secure about the way online registration would be accomplished.

Matt Griffin:

I do not think that would be possible because of the time involved in getting these people together to discuss how the data transfer will occur. California just adopted this, as did Arizona, and the implementation occurs over a several-month period.

Assemblywoman Gansert:

As a check on the system, I think you should bring back exactly how it would work so that we could understand it and be assured that there are safeguards and that you are checking with the DMV. Then we, as a legislative body, could approve that, which would be like putting the cart after the horse rather than the cart before the horse. It looks as though you are asking for approval to be able to implement it when we have not checked it out and agreed that it makes sense and that we feel secure with the system.

Matt Griffin:

I guess, in a nutshell, that is kind of what we are doing. It is legislative authority for the Secretary of State's Office to execute.

Assemblywoman Gansert:

It is implementation; not just working out how to do it. It is implementing it.

Chair Koivisto:

Are there any other questions from the Committee? I might point out that several states are doing this, so the parameters are there for us to follow.

Assemblywoman Smith:

This is one of those really difficult bills because it has so much in it. If you like 99 percent of it but do not like 1 percent, it is always a dilemma figuring out what to do. I am really troubled by this bill. I think it will end up in Ways and Means, which will give us a little more time to talk about it. The fiscal notes are not big, but the implications are. I am having some difficulty with it.

Chair Koivisto:

Are there other comments or questions from the Committee? Mr. Horne, did you want to make that motion?

ASSEMBLYMAN HORNED MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 82 AS OUTLINED IN THE WORK SESSION DOCUMENT, AND REREFER IT TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Gansert:

I am okay with that motion because I am on the Ways and Means Committee and will be able to hear this bill again. So I will support that, but I do have problems with the bill as it is.

Assemblyman Ohrenschall:

I share some of the concerns expressed by my colleague from Sparks, so I will vote for the motion, but want to reserve the right to change my vote on the floor.

THE MOTION PASSED. (ASSEMBLYMEN COBB AND SETTELMAYER VOTED NO. ASSEMBLYMAN OHRENSCHALL RESERVED THE RIGHT TO CHANGE HIS VOTE ON THE FLOOR.)

Chair Koivisto:

Go ahead, Mr. Guinan.

Patrick Guinan:

The next bill we have is Assembly Bill 256.

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

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read an explanation of the bill and proposed amendments from prepared text ([Exhibit H](#)).]

Assemblyman Kihuen:

Regarding the second amendment, would it be consistent with the regular time to file for candidacy taking place right now, which is May, or would that also be changed to March?

Patrick Guinan:

If you will look at page 18 of the mock-up ([Exhibit I](#)), it is section 22, subsection 2, and it reads:

A candidate for any office to be voted for at the primary city election must file a declaration of candidacy with the city clerk not earlier than the first Monday in March preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in March.

Because the primary has been moved to June, this moves candidate filing earlier to coincide with that for city elections.

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

In response to that question, if the primary is moved to June, candidates filing for the municipal elections would be in the same time period as for the state/federal elections.

Assemblyman Conklin:

I am supportive of the concepts in the first part of the bill to move the primary dates for all the current elections that fall during the first Tuesday after the first Monday in November, but I have not had a request from any of my constituents, or any city or council member covered by this, to move their elections. We have moved them in the past, but only at the request of the bodies that have their elections during those time frames. So, I am uncomfortable supporting this bill for that reason.

Assemblyman Horne:

I am uncomfortable with the bill, too, and I am not sure how I will vote. Contrary to Mr. Conklin, I have spoken with some of my constituents about it. Basically, their complaints concern low turnouts for municipal races and the money that is spent conducting them. Some complain that every time they turn around, a ballot is in front of them. I am still uncomfortable with the bill for other reasons as well.

Assemblyman Settlemeyer:

I do not have any constituents that this would affect, but what does bother me is in section 3, and maybe someone could answer my question: By allowing the appointment of the incumbent back into that office, would we not be invalidating the will of the people when they approved term limits of 12 years?

Assemblyman Munford:

That is it.

Assemblyman Settlemeyer:

That bothers me, because the people spoke very clearly to that point many years ago. Does this allow certain elected officials, if they already served for 12 years, to possibly end up serving 13 or 14?

Patrick Guinan:

I believe the Legal Division drafted that language specifically to address those types of concerns. That is why they made it an appointment rather than an election. Technically, it gets around that issue, but I would have to defer to Legal to give you the full answer. But I believe that was their intent in drafting it that way.

Assemblyman Settlemeyer:

Even with that being said, I am opposed to the concept of using a legal word to skirt around the idea of leaving someone in the same position for 14 years. The people said they did not want anyone in a position for that length of time, regardless whether it is an election or an appointment. I would have to defer to the voters' wishes. I am not a fan of term limits; I do not like term limits, but the people voted for them.

Assemblyman Munford:

I agree with my colleague, Assemblyman Settlemeyer. The voters' intent for these city councilmen was that they serve four years, and that was it. The 18-month appointment goes against everything related to term limits that the voters agreed on. That is the only aspect of the bill that I cannot accept.

Assemblyman Ohrenschall:

Our Legislative Counsel, Ms. Erdoes, was at the hearing on this bill. She explained the way the bill was drafted and how there was a lot of case law coming from similar statutes passed in other states to support that it does not violate term limit restrictions. I guess the mayor and the mayor pro tem would be "seat holders" until the successor could be named.

When I look at the benefits of this bill; when I look at the money we will save by not holding elections in odd-numbered years; and when I look at the increased citizen participation we will have from this bill, I really support it. I think it is a really good bill.

Assemblyman Kihuen:

It says it may have a fiscal impact and effect on the state. Do we have any numbers as to how much?

Patrick Guinan:

The City of Las Vegas submitted a fiscal note showing \$950,000 in expense for future biennia. No one has a fiscal note up through 2011, but then, in future biennia, the city and county show \$950,000. The comment refers to printing, stamps, supplies, training, et cetera which would all be expended by Clark County and states that a percentage would be charged back to the city. The costs would be relatively the same as we currently expend for a municipal election. We have not received any breakdown of what the actual cost allocation would be for cities, so it is not a very clean or clear fiscal note, but that is what the City of Las Vegas had to say on the subject.

Assemblyman Kihuen:

So, that would be around \$1 million to begin with, and it obviously does not take into consideration the amount that is going to be saved every election thereafter if the bill gets approved, correct?

Patrick Guinan:

It does not mention any savings; it just mentions the \$950,000 in future biennia.

Assemblywoman Smith:

This bill has two big issues in it. I actually like the idea of moving all the elections to the same time frame, but I do not like moving the primary and the filing date. Our campaign season is long enough. Before you know it, we will be running two-year campaigns instead of what we do now. It is troublesome to me, because it contains two big issues.

Chair Koivisto:

Mr. Lomax, do you have any input on this bill?

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

We testified that this bill would essentially save the taxpayers about \$1 million each election cycle. That is a rough average of what it costs to put on the five cities' primary and general elections. Moving municipal elections to the even years essentially adds no cost to those elections. Right now, we are conducting municipal elections, and they have one, two, or three contests. Adding those to a ballot that has 40 to 60 contests does not increase costs at all. Our input is that this is a cost-reduction measure.

Chair Koivisto:

A comment made during the first hearing was that even if more voters did turn out, they might not go to the end of the ballot where city election candidates would be. It might not improve voter turnout for city elections all that much. Are there any other questions on this bill?

ASSEMBLYMAN COBB MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 256.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN, HORNE, MUNFORD, SETTELMAYER, AND SMITH VOTED NO. ASSEMBLYWOMAN GANSERT WAS ABSENT FOR THE VOTE.)

We will move on to the next bill, 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:

[Mr. Guinan read an explanation of the bill from prepared text ([Exhibit J](#)).] I would like to point out that both discussions the Committee has had on this measure have centered around two issues. One is the time frame for the committee to vote—the 90-day window and whether that is appropriate or not. The other issue is whether the committee should have to vote or not. Those two issues have been discussed at length. There has been no formal amendment proposed, but several different scenarios have been offered. I think

the question today for the Committee is whether you want to go back to those questions and hammer them out or not.

Chair Koivisto:

Last session, we discussed 60 days, and we discussed that there had to be a vote. The nominee should not be appointed to his position and not be approved for lack of a vote.

Assemblyman Settelmeyer:

I agree with 60 days and doing away with the pocket veto. When the committee meets, it must make a decision.

Assemblyman Horne:

I do not have any problem with the 60 days; however, I have a problem with requiring the committee to take action. The committee may choose not to take action, but if that is the case, I believe the appointment should be accepted and not rejected. I know it is a subtle nuance, but there is a difference in requiring the committee to actually say yes or no. It is similar to when we send a measure out without recommendation. If the committee chooses not to take action, that appointee has already been doing the job for at least 60 days, so that appointment should stand, and I would make such a motion.

Chair Koivisto:

Before we take action on the motion, let us hear what Mr. Conklin has to say.

Assemblyman Conklin:

I just want to repeat this because I think we are on the same page. We would basically be saying that the time frame was 60 days and not 90 days, and the Legislature must take affirmative action to deny the appointee. Is that correct, Mr. Horne? [Mr. Horne nodded.] We are deleting the pocket veto, which is the portion that says if no action is taken by the committee, the appointee is automatically denied.

Assemblyman Horne:

Right.

Assemblyman Conklin:

So, the committee must take affirmative action to deny.

Assemblyman Horne:

Right.

Assemblyman Segerblom:

I agree, but I am concerned about the 60 days. The reason we were going to change to 60 days was because if no action was taken by the committee, the appointee would be out of the office. In this case, if no action is taken, the appointee stays in office. When you look at the people who will be on this committee, it might be hard to get them all in the same room at the same time in 60 days. I would prefer the 90-day time frame, but I will support the bill either way.

Chair Koivisto:

Are there further comments or questions? [There were none.] Mr. Horne, will you restate your motion, please?

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 293 WITH THE AMENDMENT BEING THAT THE COMMITTEE WILL HAVE 60 DAYS FROM THE DATE OF THE APPOINTMENT TO ACCEPT OR REJECT THE APPOINTMENT. IF NO ACTION IS TAKEN BY THE COMMITTEE WITHIN THAT 60 DAYS, THE APPOINTMENT IS ACCEPTED.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN GANSERT WAS ABSENT FOR THE VOTE.)

Moving right along, we will turn our attention to Assembly Bill 413.

Assembly Bill 413: Enacts the Agreement Among the States to Elect the President by National Popular Vote. (BDR 24-822)

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read an explanation of the bill from prepared text ([Exhibit K](#)).]

Chair Koivisto:

This is actually a very simple way to ensure that the popular vote counts. If someone gets the most popular votes in a presidential election, that person will win the election.

Assemblyman Cobb:

I recall from the hearing that the only argument against this bill was that it would hurt states that are swing states, that are small, or that were worried

about disenfranchising their voters. I do not understand why we are bringing this forward, because we hit all three of those criteria in Nevada.

Assemblyman Conklin:

The proponents of the bill argued quite the opposite.

Chair Koivisto:

Are there other comments or questions? All right, I will take a motion. As a note, this has to be passed exactly as it is written. It cannot be amended.

ASSEMBLYMAN MORTENSON MOVED TO DO PASS
ASSEMBLY BILL 413.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, HAMBRICK, AND
SETTELMAYER VOTED NO. ASSEMBLYWOMAN GANSERT WAS
ABSENT FOR THE VOTE.)

We will move on to the next bill, Assembly Bill 435.

Assembly Bill 435: Makes various changes to the provisions governing
mechanical voting systems. (BDR 24-463)

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read an explanation of the bill from prepared text ([Exhibit L](#)).]

Chair Koivisto:

Are there any questions or comments from Committee members?

Assemblywoman Smith:

Is it appropriate, since the bill has changed significantly and is specifically for Clark County, that we ask Mr. Lomax his thoughts about this amended version?

Assemblyman Segerblom:

Is this bill going to Ways and Means?

Chair Koivisto:

I do not know, because it deals with local, Clark County, dollars. Because they interact, it might also have an impact on the Secretary of State.

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

That was the first time I heard those amendments, so what I am telling you is a bit "off the cuff." What I can tell you is that there are going to be unintended consequences to this legislation, and I am not sure I understand all of them at this point in time.

I cannot offer paper ballots at early voting sites, and I tried to make that clear when this bill was first heard. In a general election, there are over 300 different versions of the paper ballot. In a primary election, because we have to offer it to Republicans, Democrats, and nonpartisan voters, you can have as many as 800 to 900 versions of the paper ballots. So, we cannot make paper ballots available at early voting sites. Theoretically, we could have a central location, but I do not know where that would be, and that would violate one of the things we seriously take into account when we conduct an election—to treat all voters in a county equally. One centralized location where people can receive paper ballots in Clark County, which is bigger territorially than the State of New Jersey, is not going to be fair to all voters. Some are going to have a much more difficult time getting to that central location than will others.

If you add up active and inactive voters, there are almost a million voters now in Clark County. So you are now opening up what I would describe as a "vote center" at which a million different people could show up. Wherever that location is, it is going to have to be big enough for parking and all the other things polling locations need. We are going to have to have it wired up to our central database, because when these people come in to vote, I have to know if they are registered. Since anyone can show up, I have to be able to pull anyone's name up to know if he is registered. Then I have to be able to track that he has voted. On Election Day, I have no way to pass this information on to the polling place these people are assigned to, so we run the risk that on Election Day, someone can go to his polling place and vote; and also show up at this central location and vote again. I am not sure what the solution to that would be.

I have been conducting elections in Clark County for 11 years, and there has never been an issue with the voting machines in Clark County. We have never had a problem. Assemblywoman Pierce cited problems from around the country. When you pull things off the Internet, you may not understand the full circumstances behind each situation. The voters in Clark County are very satisfied with the system we have.

Printing additional paper ballots is going to cost money. When you print paper ballots, they are going to be read through precinct counters so they have to be

printed in a different, more expensive manner. If you are not going to print them differently, they will be printed as we print our absentee ballots. It takes much longer to tabulate absentee ballots because they are run through our central count machines at the end of the day. That would add 12 to 24 hours to the time it will take to get your election results. After the polls have closed at 7 p.m., they will be brought into our facility, and we will start the process of running 1,200-precincts-worth of paper ballots through a board to separate them. Then they will be counted and tabulated. There are a lot of issues involved here.

If it is the decision of this Committee that you want to do something like this, I recommend you study it for a couple of years to really understand all the implications involved and the additional costs.

Chair Koivisto:

Thank you, Larry. Are there questions from the Committee for Mr. Lomax?

Assemblyman Mortenson:

I think we have an excellent voter system. As Mr. Lomax has said, Nevada is a standard in the nation. People come to study our system. It is a wonderful system, and it works beautifully. If it is not broken; I do not think we should fix it.

Assemblywoman Smith:

Having been through a recount, I know that paper ballots cannot be challenged. Having a hand-marked ballot versus using an electronic ballot is very problematic. I understand the concerns of some people who brought the legislation forward, but that was one of the reason machines are appealing to me. The value of paper ballots is problematic if there are any questionable ballots.

Larry Lomax:

Yes. That is why I think we have the best of all systems. We have computerized, or electronic, voting backed up with a printer that presents to the voter the selections he made, which he can validate. Those paper tapes are audited at the end of the election against the electronically recorded results to verify that everything was recorded correctly. Minnesota uses a system that is all paper, but there can be a lot of different interpretations when you use paper ballots. It is April, and in Minnesota they are still arguing about an election that took place in November.

Chair Koivisto:

Good point. It is problematic anytime it takes six months to count the ballots and come to a conclusion—and it is not done yet. Matt, there was some discussion that this could cause some expense to the Secretary of State's Office as well.

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

Yes, Madam Chair. I am in the same position as Mr. Lomax because I also have not seen the proposed amendments nor had a chance to evaluate the fiscal impact on our Office. Just the reporting requirements alone are going to create an additional impact. As it stands now, the staff of the Secretary of State's Office this last election was in the division until about 3:30 a.m., and that is using one of the fastest systems to report available. The introduction of paper balloting systems and the training that change would require at the county level may be significant. In addition to what Mr. Lomax has said, the Secretary of State's objection to this piggybacks on what Mrs. Smith said about the security aspects this bill brings about.

Currently in Nevada, we are a "no fault, absentee" state. That means that for no reason, you can request an absentee ballot up until a week before an election and return that absentee ballot on or before Election Day. While it sounds similar to what is offered in this bill, it does not create any of the concerns about double voting. For the Secretary of State and for the clerks and registrars, that is always our first concern—the security and dignity of the election. Having to check on Election Day whether or not a person has voted at another polling location and is now at the clerk's office trying to vote on a paper ballot brings concerns that our Office would object to and makes it very difficult for us to police.

Chair Koivisto:

Are there any questions for either Mr. Lomax or Mr. Griffin? I think we still have some problems with this bill. I am not sure we want to go any further with it, unless someone would like to make a motion. [There was no response.] Does anyone want to make a motion to amend and do pass? [There was no response.] I do not think we will vote on it, because no one will make a motion. Let us move on to the next bill, Assembly Bill 442.

Assembly Bill 442: Revises provisions concerning lobbying. (BDR 31-176)

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read an explanation of the bill and proposed amendments from prepared text ([Exhibit M](#)).] The American Civil Liberties Union (ACLU) also

proposed two amendments ([Exhibit N](#)) to the bill as it was originally written, and I would suggest that they do not apply to the bill as it would be amended if the proposals are accepted. So, depending on what direction the Committee wants to go, the ACLU amendments either do or do not have relevance to the bill. There was no opposition to the bill originally.

Assemblyman Mortenson:

I think it is extremely important that a person be able to testify as himself rather than as an employee of a government entity, if he wishes to do so. You were saying that as the bill is now, amended, that is possible and we do not need an additional amendment, is that right?

Patrick Guinan:

Under the proposed amendments Mrs. Kirkpatrick has submitted, there is no longer any prohibition on lobbying, so the amendments proposed by the ACLU would not be relevant.

Chair Koivisto:

Currently, an employee can testify on a bill and not be lobbying. It is their constitutional right to do that, but if they are being paid by their employer to be here testifying, then they are lobbying. My concern is that it prohibits employees of certain entities from receiving compensation for lobbying. Does that mean the employee will be testifying here in Carson City on his own dime and not receiving per diem, et cetera?

Patrick Guinan:

As the amendments are proposed, that portion of the bill would no longer exist.

Chair Koivisto:

Are there other questions or comments from the Committee? I think this is a good idea and will lead to some transparency in government.

Assemblyman Segerblom:

So, as I understand it, the original provision which prohibited local governments from hiring people is gone. The bill now says that they have to report quarterly when they do hire someone, and what that person is being paid. The people who are hired also have to disclose their other clients.

Patrick Guinan:

That is essentially correct. What you just stated is what is in the amendments. The amendments do not contain any prohibitions on employees' lobbying. It essentially turns the bill into a reporting bill and a sunshine bill—who contracts

are being given to, how much they are getting paid, who else a governmental entity has contracted with, and whether there are any conflicts of interest.

There are conceptual amendments. The bill has not been redrafted, and the amendments have not been accepted yet by the Committee, so we do not know exactly how these provisions will come out in the bill draft. That is the broad conceptual language you have before you.

Under the fifth proposed amendment, because the Director of the Legislative Counsel Bureau would be required to gather and report on these submissions, there may be some impact to the state financially, so a fiscal note may need to be developed on the bill. I do not think it would be a significant fiscal note, but I cannot guarantee that. I am sure the Director's Office would be happy to prepare a fiscal note, if the Committee chooses to go forward with the bill.

Assemblyman Segerblom:

I think it is a good start. I preferred the original bill, but at least this gives us some information. People in the future may want to take the steps the bill originally proposed.

ASSEMBLYMAN HAMBRICK MOVED TO AMEND AND DO PASS
AS AMENDED ASSEMBLY BILL 442.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN GANSERT WAS
ABSENT FOR THE VOTE.)

Patrick Guinan will present the next bill, Assembly Joint Resolution 11.

Assembly Joint Resolution 11: Urges Congress to implement the Homeowners and Bank Protection Act of 2007. (BDR R-850)

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read an explanation of the bill from prepared text ([Exhibit O](#)).]

Chair Koivisto:

I think we need to address the banking and foreclosure crisis. We have certainly seen that bailouts are not the answer. The banks have received bailouts, but are still not lending money. Are there any questions or comments?

ASSEMBLYMAN MUNFORD MOVED TO DO PASS
ASSEMBLY JOINT RESOLUTION 11.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION FAILED. (ASSEMBLYMEN COBB, HAMBRICK, HORNE, AND SETTELMAYER VOTED NO. ASSEMBLYMEN CONKLIN, GANSERT, AND SMITH WERE ABSENT FOR THE VOTE.)

We have one bill left, Assembly Joint Resolution 14.

Assembly Joint Resolution 14: Urges the United States Environmental Protection Agency to grant California a waiver to achieve certain reductions in greenhouse gas emissions from motor vehicles. (BDR R-5)

Patrick Guinan, Committee Policy Analyst:

[Mr. Guinan read an explanation of the bill from prepared text ([Exhibit P](#)).]

Chair Koivisto:

Are there any questions or comments? Does anyone have anything to say about A.J.R. 14?

ASSEMBLYMAN SEGERBLOM MOVED TO DO PASS
ASSEMBLY JOINT RESOLUTION 14.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, HAMBRICK, AND SETTELMAYER VOTED NO. ASSEMBLYWOMEN GANSERT AND SMITH WERE ABSENT FOR THE VOTE.)

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And A.J.R. 14 passes. Thank you very much, Committee. Is there anything else to come before the Committee? We are done, and thank you very much.

We are adjourned [at 5:38 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblyman Harry Mortenson, Chair

DATE: _____

Assemblywoman Ellen Koivisto, Chair

DATE: _____

EXHIBITS

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

Date: April 9, 2009

Time of Meeting: 3:55 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
A.J.R. 6	C	Patrick Guinan	Explanation of the bill
A.J.R. 16	D	Patrick Guinan	Explanation of the bill and proposed amendments
A.B. 82	E	Patrick Guinan	Explanation of the bill
A.B. 82	F	Patrick Guinan	Section-by-section summary of the bill
A.B. 82	G	Patrick Guinan	Mock-up of the bill
A.B. 256	H	Patrick Guinan	Explanation of the bill and proposed amendments
A.B. 256	I	Patrick Guinan	Mock-up of the bill
A.B. 293	J	Patrick Guinan	Explanation of the bill
A.B. 413	K	Patrick Guinan	Explanation of the bill
A.B. 435	L	Patrick Guinan	Explanation of the bill
A.B. 442	M	Patrick Guinan	Explanation of the bill and proposed amendments
A.B. 442	N	Patrick Guinan	Proposed amendments
A.J.R. 11	O	Patrick Guinan	Explanation of the bill
A.J.R. 14	P	Patrick Guinan	Explanation of the bill