

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-fifth Session
March 26, 2009**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Joyce Woodhouse at 1:38 p.m. on Thursday, March 26, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Joyce Woodhouse, Chair
Senator Bernice Mathews, Vice Chair
Senator Valerie Wiener
Senator John J. Lee
Senator William J. Raggio
Senator Barbara K. Cegavske
Senator Warren B. Hardy II

GUEST LEGISLATORS PRESENT:

Senator Allison Copening, Clark County Senatorial District No. 6
Senator Dean A. Rhoads, Rural Nevada Senatorial District
Senator Maurice E. Washington, Washoe County Senatorial District No. 2

STAFF MEMBERS PRESENT:

Brenda Erdoes, Legislative Counsel
Pepper Sturm, Committee Policy Analyst
Makita Schichtel, Committee Secretary

OTHERS PRESENT:

David Schumann, Chair, Nevada Committee for Full Statehood
Janine Hansen, New Eagle Forum
Veronica Meter, Vice President, Government Affairs, Las Vegas Chamber of Commerce

Senate Committee on Legislative Operations and Elections
March 26, 2009
Page 2

Matthew M. Griffin, Deputy Secretary for Elections, Office of the Secretary of State

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

Lynn Chapman, Nevada Families

John Wagner, Independent American Party

Charity Stevens, Kermitt Waters

Alan Glover, Clerk-Recorder, Carson City

Larry Lomax, Registrar of Voters, Clark County

Stacy Shaffer, Political Director, Service Employees International Union, Local 1107

Nicole J. Lamboley, Chief Deputy, Office of the Secretary of State

Barry Smith, Executive Director, Nevada Press Association, Inc.

Erin McMullen, Las Vegas Chamber of Commerce

CHAIR WOODHOUSE:

We will call the meeting to order and open the hearing on Senate Bill (S.B.) 316.

SENATE BILL 316: Directs the Legislative Commission to provide for a study concerning the establishment of a health insurance exchange in Nevada. (BDR S-1108)

SENATOR ALLISON COPENING (Clark County Senatorial District No. 6):

For the increasing number of people who are finding themselves without affordable health care, a State health insurance exchange would provide greater access, choice, portability and affordability of health insurance coverage ([Exhibit C](#)). Due to our difficult financial condition, I did not request an interim study or funds to hire consultants. Instead, I am confident the Legislative Counsel Bureau can conduct the study within the limits of existing resources. It was suggested the study and its recommendation also be presented to the Legislative Committee on Health Care, and I am in agreement with that amendment. Lastly, I present an exhibit titled "Health Insurance Exchange Study" ([Exhibit D](#)), which was prepared by the Minnesota Department of Health at the request of the Minnesota Legislature. I hope it will serve as a template for the study.

DAVID SCHUMANN (Chair, Nevada Committee for Full Statehood):

This is an excellent idea. The study is one of the brightest ideas I have heard produced by the Legislature.

Senate Committee on Legislative Operations and Elections
March 26, 2009
Page 3

JANINE HANSEN (New Eagle Forum):

Eagle Forum has been involved in national efforts to provide alternatives to health care. We endorse this idea, particularly the ability for individuals to pay with pretax dollars as opposed to only companies.

CHAIR WOODHOUSE:

We will temporarily close the hearing on S.B. 316 and open the hearing on S.B. 212.

SENATE BILL 212: Revises provisions governing initiative petitions.
(BDR 24-649)

SENATOR DEAN A. RHOADS (Rural Nevada Senatorial District):

In the past, we had to go to 13 out of 17 counties to get an issue onto a ballot. A federal judge in Idaho declared this was unconstitutional and signatures on petitions could be gathered in one location. Last Session, we passed a bill requiring a minimum of 10 percent of signatures from voters in the last general election in each county to get a petition onto the ballot. Last fall, a federal judge in Las Vegas declared this was also unconstitutional. It gave the rural counties too much power. This bill requires 10 percent of voters' signatures, but an amendment put forward of 5 percent is agreeable to me. The bill allows sponsors to gather the petitions anywhere. It also requires the Secretary of State to hold a public hearing at least 60 days before the general election. About six other states have this procedure and have not been challenged. It will give all Nevadans an opportunity to participate in the process without having to get the ballots in one place.

VERONICA METER (Vice President, Government Affairs, Las Vegas Chamber of Commerce):

The Chamber is in support of this bill, which is consistent with previous court rulings. We must have statewide support for the bill, rather than just 10 percent of voters or just one or two counties being involved.

MATTHEW M. GRIFFIN (Deputy Secretary for Elections, Office of the Secretary of State):

We are in favor of the bill and have offered an amendment ([Exhibit E](#)), which changes that each document must bear the name of an Assembly District rather than a county district. Otherwise, we would have no way to do a statistical

sampling or verify signatures as required under chapter 293 of the *Nevada Revised Statutes* (NRS).

LEE ROWLAND (Northern Coordinator, American Civil Liberties Union of Nevada):
We support the bill. We try to find informal fixes to issues that we think have constitutional dimensions and may lead to litigation.

MR. SCHUMANN:

This bill would make it impossible for anyone, short of being a millionaire, to run an initiative petition. Each petition gatherer would have to carry 42 clipboards to track which Assembly District signees live in. Who knows where the lines are? One would need a PalmPilot to find those lines. The better way to do this is by Congressional Districts. If you were at a shopping center, some might be visiting from a separate county; they would require a separate list. This is too difficult. Congressional Districts are easy to identify and would require one clipboard per district.

LYNN CHAPMAN (Nevada Families):

It was difficult carrying 17 clipboards; carrying 42 would be impossible. Even if our volunteers had BlackBerry devices or global positioning systems, they might not know how to use them. Most voters know their counties but not their districts.

JOHN WAGNER (Independent American Party):

We are against this bill. This would be the death of the initiative process. To log onto the Secretary of State's Office, our volunteers would need Internet access and navigational savvy. Most people who sign the petitions will not be willing to wait the 10 to 15 minutes to verify which Assembly District they live in.

MS. ROWLAND:

I had a clerical error and previously referred to the wrong bill by Senator Rhoads. I recall my previous testimony. We have examined the bill and oppose it. Identifying petitions by Assembly Districts may re-create the same problems that led to the original lawsuit. In between redistricting periods, Assembly District populations vary. If there are two Assembly Districts with a large differential of population, it could create the same constitutional problem.

CHARITY STEVENS (Kermitt Waters):

I represent Mr. Waters, who is submitting his written testimony for the record ([Exhibit F](#)). We oppose this bill for a number of reasons ([Exhibit G](#)). By accepting it, you are giving the power to one Assembly District to override the will of the other 41 Districts. This is an obstruction and will cause legal problems, subjecting taxpayers to thousands of dollars in attorney fees. Please vote this bill down.

Ms. HANSEN:

This bill would kill the right to petition. I have served in petition work in every county of this State. This bill would make that difficult work logistically impossible. Typically, an initiative volunteer can collect about 15 signatures per hour. Having to use an electronic device to determine the signees' Districts would increase the time for each signature by about ten minutes, thereby limiting total signatures to six signatures an hour. If volunteers write in the District themselves, they would be committing a felony, since there is a bill that makes it a felony to change anything on a petition. This bill is far too onerous on our volunteers.

Why is the Office of the Secretary of State requiring a public hearing? We have a wonderful process which allows ballot committees to write the arguments on either side. If a bad petition is proposed, the people must pass it twice, which is a protection.

The *Constitution of the State of Nevada*, Article 19 section 2, says the people reserve to themselves the power to propose by initiative petition, statutes and amendments to statutes and amendments to the Constitution. Please protect the people's rights.

SENATOR HARDY:

Although I commiserate with the difficulty of the process, petitions must represent a broad cross section of voters. I believe this is an attempt to preserve the initiative process rather than to kill it.

Ms. HANSEN:

We always supported the 13 Counties Rule, which has been struck. To get signatures from 42 Assembly Districts, you cannot miss 1 district or the initiative fails. The best alternative is the Congressional-District option. We will

Senate Committee on Legislative Operations and Elections
March 26, 2009
Page 6

support litigation against this rule which violates fundamental rights. The Supreme Court states the right to petition is the zenith of free speech.

CHAIR WOODHOUSE:

We will close the hearing on S.B. 212 and open the hearing on S.B. 315.

SENATE BILL 315: Revises certain provisions concerning voter identification.
(BDR 24-925)

SENATOR WILLIAM J. RAGGIO (Washoe County Senatorial District No. 3):

This bill would require registered voters to meet stricter standards for proof of identity when voting. It is based on similar provisions in Indiana law which held that requiring photo identification (IDs) for this purpose did not unconstitutionally burden a person's right to vote, in part because Indiana provided an acceptable photo-identification card free of charge. There are 24 states that require all voters show identification prior to voting, 7 of which specify a photo ID. The bill would limit elections fraud and the very perception of fraud. I submit my written testimony ([Exhibit H](#)).

SENATOR CEGAVSKE:

Will address verification be required by this bill? If so, what would happen to a person having a post office box?

ALAN GLOVER (Clerk-Recorder, Carson City):

Many drivers' licenses have post office boxes as addresses. However, when people register to vote, they must give us their home address so we can place them in a precinct. This is a problem. People are voting in districts where they do not belong.

The Indiana law cited by Senator Raggio is the premier law within our industry. The main complaint during early voting was the lack of photo identification requirements.

SENATOR RAGGIO:

What would be the cost to counties to produce the free voter ID card?

MR. GLOVER:

Around 95 percent of Nevadans already have photo identifications. For the remaining 5 percent of registered voters, it would cost about \$20 a person or

less. Our small county would not be greatly impacted. The impact to Clark County would be much larger.

LARRY LOMAX (Registrar of Voters, Clark County):

With the little research I have done on producing identifications, I do not think it would be a significant cost.

If the intent of this bill is to require we check addresses, then there are other parts of the law to change. Currently, the law gives us specific instructions on what to do if someone moves and does not update their address. They are to go to a holding place which serves as the address to which they are registered. There is a very significant portion of the population—about 25 percent in Clark County—that does not keep addresses current.

If this bill is passed, I recommend you look at section 8, which is current law. Almost all of that section should be deleted, as it provides for exemptions to provide ID. The only part that should remain is on page 4, lines 38 through 45.

SENATOR CEGAVSKE:

When I vote, my signature is compared to the signature on record. If we have ID cards, would you look at that ID and see that the signature and the address both match?

MR. LOMAX:

Statutes require us to verify the signature, but if you give us a new direction to verify addresses, we will do so. The way the bill is written, I do not read it to say we need to verify addresses.

SENATOR CEGAVSKE:

It requires people show identification, so what are you checking on our identifications?

MR. LOMAX:

When we look at an ID, we make sure the picture matches the person. We do not keep someone from voting if their address does not match, or if they show a post office box.

BRENDA ERDOES (Legislative Counsel):

This bill would not require verifying anything except the photograph.

MS. METER:

We are pleased to support S.B. 315, which should reduce voter fraud and ensure each person votes once.

MS. CHAPMAN:

We support the bill. We appreciate the portion about religious objection for those who do not wish for their photographs be taken.

Photo identification is important. For an example, I found that my NV Energy bill had been rerouted to another address by someone claiming to be me. When I did some research, I found there were many others who had the same problem. At one grocery store branch where people pay their electric bills, there were more than 50 people with the same issue around the same time of not receiving their bill. I called and reported this to NV Energy that took the issue very seriously. This was during voter registration. If this was an attempt for people to fraudulently register to vote in the wrong district, then this bill would keep that from happening.

MS. ROWLAND:

I am opposed to this bill. The American Civil Liberties Union litigated the Indiana court case and lost. The requirement of photo IDs disenfranchises the elderly, poor, disabled and students. Photo ID laws are a solution in search of a problem. There has never been a case of voter ID fraud in Indiana or in Nevada. What is the problem we are trying to remedy? This bill is not justified and will have a negative impact on many voters.

CHAIR WOODHOUSE:

We will close the hearing on S.B. 315 and reopen the hearing on S.B. 316.

STACY SHAFFER (Political Director, Service Employees International Union, Local 1107):

We represent nearly 10,000 State health-care workers. Access to affordable health care is a luxury. With nearly one in five residents without health care, something must be done. We support this bill and think it is an important step to do this study.

CHAIR WOODHOUSE:

We will close the hearing on S.B. 316 and open the hearing on S.B. 210.

SENATE BILL 210: Makes various changes to the provisions governing the disposition and reporting of campaign contributions. (BDR 24-582)

SENATOR JOHN J. LEE (Clark County Senatorial District No. 1):

We have many Legislators who will be termed out soon. What happens to their money set aside for future campaigning? This bill would ensure a person disposes of and reports unspent campaign funds and submits proof the recipient actually received the money. I have handed out a mock-up of the proposal ([Exhibit I](#)). If I term out and say I gave Senator Wiener \$10,000 toward her next campaign, there is no proof of that transaction. I would like to create a reporting system that proves the person received money. It would be an open and transparent system. If one fails to file this report, they would be subject to civil penalties which are already in the statutes. This will also require all candidates to indicate on their annual Campaign Contribution and Expense Report any balance remaining on campaign amounts to the end of the calendar year or to the date the account was closed. It also revises provisions governing the disposition of unspent campaign funds, requiring a person who becomes a candidate but does not appear on the election ballot within four years to dispose of the unspent contributions. If you decided not to run after four years, you could make a contribution to the State Distributive School Account or county school district fund. Donating to your political party is not the only option.

MR. GRIFFIN:

We have an amendment ([Exhibit J](#)) which changes the word from “must” to “may” include proof of payment. This limits the required documents to state that any of the forms will suffice; all forms are no longer needed.

Currently, a candidate who loses an election is required to disperse their payments and could give the funds to a political action committee (PAC). There are about 609 political action committees on file, and about 109 are active. The majority of inactive PACs are difficult to track down. A candidate could have given them money and our office has no way of verifying they are still in existence or that they received the candidate’s money.

Prior to 2003, there was no law requiring candidates to state their ending balances. The 2003 bill changed our ability to determine remaining campaign funds. Our office then amended the campaign finance forms with a place to state their ending balances. Nowhere in the law was this written until 2003.

SENATOR LEE:

On page 5, section 3, lines 41 through 43 are to be deleted. Although the PACs are a part of dispersing of campaign funds, this bill outlines how to dispense and report leftover money for those ending their candidacy.

NICOLE J. LAMBOLEY (Chief Deputy, Office of the Secretary of State):
We worked with Senator Lee on this bill and support its policy measures.

SENATOR RAGGIO:

When your term is up or you are defeated, what is the time line you have to dispose of your funds? How does that relate to the four-year period referenced in section 3, subsection 5, paragraph (b)?

MR. GRIFFIN:

It is the fifteenth day of the second month after that event. The law states that after you lose an election but still raise \$100, you are considered a candidate again. The four-year period applies as a reasonable time period to file for an official designated office. If you have not done so, then you are obligated to dispense the money.

MS. ERDOES:

Nevada law says you must disperse the money in the two-month time frame of terming out or being defeated in an election. One method of dispersing the money is to set it aside as a new campaign fund, even if it is for an undisclosed office. This bill mandates declaring a specific office and running for that office during the four-year time frame.

SENATOR LEE:

Some people take this money out of their account and put it into a PAC, where it stays under their control indefinitely. I want the disbursement of funds to have an ending date and be an open and transparent process.

SENATOR CEGAVSKE:

How would Senator Townsend's bill impact this bill? His bill says the PAC contribution money must be reported within 48 hours. It seems you are saying the money does not have to be reported for four years.

SENATOR LEE:

Section 1 of the bill says the Secretary of the State would be notified of any contributions, so it would be disclosed. It is both the PAC's and the candidate's responsibility to report contributions. I ask that Ms. Erdoes and Mr. Griffin collaborate on this bill to clear up any ambiguity.

SENATOR RAGGIO:

The NRS 294A.160 reads that a person who is elected may use the leftover campaign funds in their next campaign. What happens if a person does not run for any new election or is not reelected? What happens to that leftover money? The law clearly states they must return the unspent money, contribute it to others' campaigns or dispose of the money. This is not the same language for an elected candidate. They may keep the money and use it in their next campaign. For an unelected person, they do not have the right to keep the money. That would be a violation. If a person is not elected, either from losing an election, not running or being term limited, they must comply with section 3. If elected, they fall under section 2 and can use the money in their next election as an incumbent.

MS. LAMBOLEY:

The confusion is that anytime you receive an additional \$100 contribution, you become a candidate. If that person keeps receiving campaign funds, they can forward those balances from campaign accounts. Even term-limited people are allowed to carry forward those campaign funds for another election. They do not have to declare which office they wish to pursue, but that they plan to run for public office.

BARRY SMITH (Executive Director, Nevada Press Association, Inc.):

We support this bill and appreciate the section about the end of the year balance. Reporters have asked that this be in place. It is like a bank statement that lists deposits, withdrawals and an ending balance.

ERIN McMULLEN (Las Vegas Chamber of Commerce):

We echo the prior testimony in our support of the bill and the section about balances.

MS. HANSEN:

I have ongoing concerns about the increasing number of campaign reporting requirements. They may have had good intentions in the beginning, but as they

become more onerous, fewer people will be willing to participate in the process. These laws seriously harm challengers. People have lost their jobs because they were running for office. Although many of you have not experienced this with the power of incumbency, challengers have serious problems trying to respond to the requirements. Who is really interested? Typically, it is not Legislators' requests but the media's request. In a citizen legislature, this is a dangerous road to follow. I encourage you to look at each piece of legislation which requires more and more reporting. Reporting has never improved the quality of our elected members. The reason so many elections go unopposed is because challengers are reluctant to subject themselves to onerous laws. They hamper free elections and free speech.

CHAIR WOODHOUSE:

We will close the hearing on S.B. 210 and open the work session on S.B. 120, S.B. 162 and S.B. 181.

[SENATE BILL 120](#): Revises the date of the primary election. (BDR 24-370)

[SENATE BILL 162](#): Revises the date of the primary election and provisions governing voter registration by mail. (BDR 24-1001)

[SENATE BILL 181](#): Makes various changes regarding governmental administration. (BDR 24-666)

SENATOR RAGGIO:

I have a statement on S.B. 162. We all agree that the mid-August primary election is not workable. Changing the date to the traditional September date or a June date would be an improvement. If we change the date to June, then we have to change the date for candidates to file from May to March, which extends the election time frame. We changed the filing date at the request of U.S. Senator Harry Reid, who said March is too early to file. The campaigning will go on longer and the challenging parties will need an alternate filing date other than March. I realize the county clerks do not prefer the September date, although many states do have September primaries. A September date would accommodate all and shorten the length of the election process.

PEPPER STURM (Committee Policy Analyst):

I will present the history along with any proposed amendments of S.B. 120 ([Exhibit K](#)), S.B. 162 ([Exhibit L](#)) and S.B. 181 ([Exhibit M](#)).

SENATOR RAGGIO:

I have a question on amendment number 4 of Senate Bill 162, [Exhibit L](#). If only one major political party has up to two candidates for an office, they will not appear in the primary and will only appear on the ballot for the general election. If there are three or more candidates, then two would appear on the general election ballot unless the other major party has a candidate. Is that correct?

MS. ERDOES:

Correct, if the other major party does not have a candidate, then the remaining major party would put forth three candidates to the primary, and two would go forward to the general election unless any one candidate gets over 50 percent of the vote. In that case, they would be on the general election ballot alone. I have provided a detailed amendment ([Exhibit N](#), original is on file in the Research Library).

SENATOR RAGGIO:

What would happen if a minor party has put up a candidate and one major party has two candidates?

MR. GRIFFIN:

Under this amendment, all three candidates would go to the general election. Today, if two major-party candidates and one minor-party candidate runs, once the minor-party candidate files, the two major-party candidates run in the primary. The winner would then run against the minor party candidate in the general election.

SENATOR CEGAVSKE:

Are you changing the filing date from March to April?

MS. ERDOES:

They asked to change the date to April because case law says the filing date cannot be too far from the general election date.

SENATOR CEGAVSKE:

Can you go over the dates again?

MR. GRIFFIN:

There are three dates to note. January would be for judicial officers, March would be for major political parties and minor political parties with ballot

Senate Committee on Legislative Operations and Elections
March 26, 2009
Page 14

access—now the Independent American Party and the Libertarian Party—and April would be all minor political parties and independent parties.

SENATOR MATHEWS:
Why are we never satisfied with a date?

MR. GRIFFIN:
The amendment is for legal reasons, not policy reasons. The U.S. Supreme Court says that if you start an initiative petition too far away from a general election, then no one will care enough to sign it. The right to be a candidate could be infringed. Based on court cases and discussion with the Legislative Counsel Bureau, there is a chance the March date would land us in court. Although we feel confident of our chance in court, a judge's injunction on the election could be of dire consequences. April seems to be the most acceptable date. Unfortunately that leaves us with three separate filing dates.

SENATOR MATHEWS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 162 WITH ALL FOUR AMENDMENTS IN THE MOCK-UP IN
[EXHIBIT K](#).

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

SENATOR RAGGIO:
We are creating other problems with this date.

CHAIR WOODHOUSE:
We will close the work session on S.B. 162 and open it on S.B. 181.

MR. STURM:
You all have the mock-up of this bill with an additional amendment ([Exhibit O](#), original is on file in the Research Library).

SENATOR MAURICE E. WASHINGTON (Washoe County Senatorial District No. 2):
Sections of the bill have been deleted so that now the bill deals only with voter identification. We have worked with the Department of Motor Vehicles (DMV)

to ensure the bill is revenue neutral. Section 13 identifies imposed DMV fees to pay for the identification card required by the courts, which would be free to the public. Imposed fees are listed but would exclude those over 65 years of age and those under 18 years of age.

CHAIR WOODHOUSE:

As both S.B. 315 and your bill deal with voter identification, we will hear them together in an upcoming work session.

SENATOR RAGGIO:

Senator Washington's bill only deals with the issuance of an ID card, where my bill requires the county clerks to provide a card at no charge. His is an alternative method. We could get together with the DMV and the county clerks to determine how to best process these issues.

CHAIR WOODHOUSE:

Senator Raggio's idea is an excellent one. We look forward to hearing your recommendation. The meeting will adjourn at 3:52 p.m.

RESPECTFULLY SUBMITTED:

Makita Schichtel,
Committee Secretary

APPROVED BY:

Senator Joyce Woodhouse, Chair

DATE: _____