

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Sixth Session
May 10, 2011**

The Committee on Legislative Operations and Elections was called to order by Chair Tick Segerblom at 2:38 p.m. on Tuesday, May 10, 2011, 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/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Tick Segerblom, Chair
Assemblywoman Lucy Flores, Vice Chair
Assemblyman Marcus Conklin
Assemblyman Richard (Skip) Daly
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Richard McArthur
Assemblyman James Ohrenschall
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

Assemblyman John Ocegüera (excused)
Assemblywoman Debbie Smith (excused)

GUEST LEGISLATORS PRESENT:

Senator Dean A. Rhoads, Rural Nevada Senatorial District

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Terry Horgan, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

Nancy M. Saitta, Associate Justice, Supreme Court
Ben Graham, representing Administrative Office of the Courts, Supreme Court
John R. McCormick, Rural Courts Coordinator, Administrative Office of the Courts, Supreme Court
Lynn Chapman, State Vice President, Nevada Eagle Forum
John Wagner, State Chairman, Independent American Party
Scott Gilles, Deputy for Elections, Office of the Secretary of State
Matt Griffin, Former Deputy for Elections, Office of the Secretary of State
Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada
Gail Tuzzolo, representing Nevada AFL-CIO
Sam McMullen, representing Las Vegas Chamber of Commerce
Wes Henderson, Deputy Director, Nevada Association of Counties
Pat Sanderson, Private Citizen, Nevada
Kyle Davis, representing Nevada Conservation League

Chair Segerblom:

[Roll was taken.] We will begin with Senate Joint Resolution 14.

Senate Joint Resolution 14: Proposes to amend the Nevada Constitution to create an intermediate appellate court. (BDR C-1013)

Nancy M. Saitta, Associate Justice, Supreme Court:

Good afternoon, it is my pleasure to come before you on this resolution. I will defer to the gentlemen on my left and right, who are prepared to give you a full presentation on what S.J.R. 14 is and why we ask you to consider it.

Chair Segerblom:

Mr. Graham, would you explain to the Committee that this resolution is identical to a bill we have already passed, so maybe you will not have to go into such detail.

Ben Graham, representing Administrative Office of the Courts, Supreme Court:

About three weeks ago, we heard a resolution that was essentially the same legislation. Senate Joint Resolution 14 would create an appellate court that would not be functional until 2016.

One comment I have heard a time or two concerns this being the same measure Nevada citizens voted on during the 2010 general election. To some degree, that is accurate. I do want to remind you that this measure did pass in Clark County; however, it was on the ballot with another bill that was not as popular. The legislation we are seeking today would not create a court until 2016, because amending the state *Constitution* takes quite a while.

I have a letter from Danny Thompson and John Sande III supporting this from a couple of different directions ([Exhibit C](#)). Again, this legislation would have to come back to you again during the 2013 Legislative Session.

Chair Segerblom:

Mr. Graham, will you remind us how we voted on this issue two weeks ago?

Ben Graham:

You voted "do pass."

Chair Segerblom:

Are there any people here who would like to speak in favor or in opposition to the bill?

Ben Graham:

The full presentation is on your Nevada Electronic Legislative Information System (NELIS), too.

Chair Segerblom:

Mr. McCormick, do you want to say anything?

John R. McCormick, Rural Courts Coordinator, Administrative Office of the Courts, Office of Court Administrator:

No, Mr. Chair; I am just here to answer any questions.

Chair Segerblom:

Does anyone else want to testify in favor of the bill? [There was no response.]
Is anyone opposed to the bill?

Lynn Chapman, State Vice President, Nevada Eagle Forum:

I did vote for this bill in November, and we encouraged people to vote for it in our voter guide. We are not necessarily against this, except that the people just voted on it, and some are very upset by the fact that no one seems to be listening to them. Because you are still going forward with this idea, to the public it appears that you do not care what they voted on or said just a few months ago. That is what a lot of people have a problem with.

Chair Segerblom:

Are there any questions for Ms. Chapman? [There were none.]

John Wagner, State Chairman, Independent American Party:

We have voted on this issue in a general election at least once that I can remember and possibly twice. Every time we vote on it we hear that the voters need to be educated. Maybe we do, but why do we vote on it every two or four years? We go through the same motions. The only legislation I do not see returning this session concerns the ability to vote for judges, which we have also voted on several times in this state.

Chair Segerblom:

Are there any questions for Mr. Wagner? [There were none.] Seeing none, I will close the hearing on S.J.R. 14. Does anyone on the Committee have any questions or concerns about this bill? [There was no response.] Is there an appetite to move this bill today?

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
SENATE JOINT RESOLUTION 14.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN, OCEGUERA,
AND SMITH WERE ABSENT FOR THE VOTE.)

I see Senator Rhoads here. You have two bills, so take them in the order you would like.

Senator Dean A. Rhoads, Rural Nevada Senatorial District:

Thank you, Mr. Chair and members of the Committee. I will present Senate Bill 133 (1st Reprint) first.

**Senate Bill 133 (1st Reprint): Revises provisions governing initiative petitions.
(BDR 24-1)**

Senate Bill 133 (1st Reprint) relates to petition districts and makes the following changes. Petition districts are defined to mean congressional districts, and the number of signatures from each district required to propose a petition must be equal among the districts. A petition document must contain the name of the petition district, and the affidavit must include the address of the petition circulator. The filing deadline for petitions is moved from the third Tuesday in May to the third Tuesday in June in even-numbered years. Procedures for counting signatures and for a random sampling to verify signatures are provided. I believe someone is here from the Office of the Secretary of State to elaborate on this bill.

Chair Segerblom:

I commend you, Senator, for moving to the congressional-district level, because that, as far as we can tell, is pretty much bulletproof.

Scott Gilles, Deputy for Elections, Office of the Secretary of State:

Our office does support the changes related to the clean-up language regarding signature collection and verification. I will defer to Matt Griffin to explain those changes. The language was essentially put together by Mr. Griffin and the Senator, and I believe he will be better able to speak to the actual changes.

Chair Segerblom:

I want to clarify that under this bill, we would take 10 percent of the total votes within the state from the last election and divide that number by four. That is the number of signatures that would need to be obtained in each congressional district. Is that right?

Scott Gilles:

That is correct.

Chair Segerblom:

Even though some congressional districts would have more voters than others, it would be all right to have the same number of people sign in each of the four petition districts.

Scott Gilles:

That is correct, and case law has upheld that. Mr. Griffin can speak more to that.

Chair Segerblom:

Are there any questions for Mr. Gilles? [There were none.]

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

In addition to what Senator Rhoads and Mr. Gilles said, a lot of the changes in this bill are adapting state law from our old county rule—you had to get signatures in 13 of the 17 counties—and the verification and raw count process that occurred there. A lot of the changes in this bill are adaptations as we move to a congressional-district standard. In those petition districts with multiple counties, there will be an effective way to do a raw count and verification of signatures, so those issues have been resolved.

You are correct, Mr. Chair. The petition process uses the four congressional districts and an even number of signatures would be required from each district. You would have to live in the district in which you signed the petition, and everything else is essentially the same as in years past.

I do have one amendment to the bill, and I apologize to the Committee because it was an oversight on my part when I was working with the Legislative Counsel Bureau on this. I have spoken with Senator Rhoads, and believe it to be a friendly amendment to the bill. Under section 8, subsection 3, the current language reads, "Each document of the petition must bear the name of a petition district, and only registered voters of that petition district may sign the document." I would amend that to include "county and petition district," so it would read, "Each document of the petition must bear the name of a county and a petition district, and only registered voters of that county and that petition district may sign the document." That change would bring it into accordance with Article 19, Section 3 of our *Nevada Constitution*. It is already a requirement in our *Constitution* that the petition contain the name of the county. Obviously, this bill cannot correct that, so we have to conform this bill to what the *Constitution* requires, and that is why I am bringing this amendment today.

Chair Segerblom:

Thank you; we will have the Legal Division draft that. Are there any questions for Mr. Griffin?

Assemblyman Daly:

Why has the date for filing the petition been changed from May to June?

Matt Griffin:

The Supreme Court told us to. In 2007, the date was moved ahead so that the clerks would have more time to verify the petition. The Supreme Court said

that violates the *Constitution*. They said the date needed to be moved back to June, and the language just has not been cleaned up. The case is *Angle v. Miller (We the People Nevada v. Miller, 124 Nev. Adv. Op. 75, 192 P.3d 1166 (2008))*.

Assemblyman Hickey:

Nevada Revised Statutes (NRS) Chapter 293 talks about what petitions can do. We can collect signatures for an initiative to change a statute, to amend a statute, or to amend the *Nevada Constitution*. Could you very simply review what petitions cover?

Matt Griffin:

There are essentially three major types of petitions—referendum, statutory petition, and constitutional. A constitutional petition requires a two-year cycle. It has to go to a vote of the people twice and it is amending some provision in the *Constitution*. There are limits on that. You cannot amend the *Constitution* to the extent that it would cause a constitutional convention. You cannot amend it to incur a cost without also providing for funding in the petition. Those are the longest processes to change the *Constitution*. The second type of petition is the statutory petition, which would amend a statute. The key to that is the word "amending." You are going to change whatever is in existing law and add to it in some material way. The third way is a referendum. I always think of a referendum as being a thumbs up or a thumbs down proposition. You take a portion of the NRS, explain what it says, and ask the voters if they want to keep it or not. The people vote on whether to keep that statute.

Referendums currently are not subject to any geographical restrictions, so you could get all your signatures in Clark County. This bill seeks to address that so that referenda and initiatives both would require geographical signatures when being circulated. In discussion from 2009, it apparently was an oversight that referenda were excluded, and this bill puts referenda back in, so signatures for them must also be gathered in all four petition districts.

Assemblyman Conklin:

Mr. Griffin, is this bill representative of the things we have been talking about over the course of the session?

Matt Griffin:

Yes, it is, and I can represent to the Committee that what was discussed with you is contained in this bill. There is nothing more and there is nothing less.

Chair Segerblom:

All right, with no further questions, we will call up anyone else in favor of the bill.

Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada:

With respect to the portion that changes initiative petition districts to congressional districts, we are here to speak in support. We appreciate all the work many different individuals have put into making this possible. We believe that congressional districts certainly will pass constitutional muster.

Lynn Chapman, State Vice President, Nevada Eagle Forum:

We are in favor of this bill; however, there is one item you should be aware of involving lines 19 through 22 on page 3, where it talks about the county clerk and signatures in the wrong petition district not being counted. I want to remind people that very few people know what Assembly district they live in. How many people would know which congressional district they live in? Not very many; so why penalize the people who want to put their names on petitions but are in the wrong petition district? I do not think that is a good idea, because it is not their fault. They were given a piece of paper to sign. So we wanted to bring that up, but the rest of the bill is great and we are in support.

Chair Segerblom:

Are you saying you do not want petition districts?

Lynn Chapman:

We want petition districts as congressional districts. We are in support of that; it is just that sometimes in Clark County someone's name might not be counted because he or she signed on the wrong petition district. We are saying it may not be a good idea because it may not necessarily be that person's fault. Not everyone knows what congressional district he or she is in.

Chair Segerblom:

Are there any questions for Ms. Chapman? [There were none.] Is anyone else here in support of the bill?

Gail Tuzzolo, representing Nevada AFL-CIO:

We are in support of this bill, and we appreciate all the hard work that went into it. For years, I have supported Senator Rhoads' effort to have some kind of geographic distribution, and we have struggled over the fairest and best way to do it. At this point, using the four congressional districts is better than not having a geographic distribution. I also appreciate the requirement that a person

circulating a petition has to put his name and address on it. As many of you know and as I have testified to before, extensive fraud can occur in the signature-gathering process. This is a good avenue to be able to check and identify fraud, and I appreciate that.

Sam McMullen, representing Las Vegas Chamber of Commerce:
We appreciate this bill as well and are firmly in support of it.

Chair Segerblom:

Is there anyone else in favor of the bill? [There was no response.] Is anyone opposed to the bill? [There was no response.] Is anyone neutral on the bill? [There was no response.]

Assemblyman McArthur:

Section 8, page 8, lines 22 through 25 say that the petition district "must" be indicated "if known." I do not understand language containing both "must" and "if known." It looks as though one of them should be left out.

Matt Griffin:

The reason that applies to the signer is because knowing his petition district should not be a determinate of whether he can sign the petition. The petition itself will have the petition district on it, and the county clerk, when verifying that petition, will also be able to determine what petition district that signer is in. The fact that the signer's part is not met should not mean that the signature is summarily discarded so long as it is on the correct petition.

Chair Segerblom:

Is there any further comment? [There was none.] I will close the hearing on S.B. 133 (R1) and we will move on to Senate Joint Resolution 8 (1st Reprint).

Senate Joint Resolution 8 (1st Reprint): Urges Congress to enact legislation or take other appropriate action to expedite and streamline the requirements for conducting mining operations in this State. (BDR R-1035)

Senator Dean A. Rhoads, Rural Nevada Senatorial District:

Thank you for the opportunity to present S.J.R. 8 (R1). This resolution lays out the importance of mining to the rural counties, to our state, and to our nation. The delays and problems caused by the many federal laws that control mining on federal lands are a source of continuing frustration to my constituents and to the mining industry.

In my district, mining provides good jobs and keeps the economy humming. In many of our rural communities, mining is the backbone of the economy, and there are no other good options. As the resolution states, the average pay for mining jobs is over \$80,000, yet thousands of jobs are being held up by the federal permitting delays. In this economy, I think it is the Legislature's job to do whatever it can to create new jobs and put more people to work. It is worth noting that for every mining job more new jobs are created in rural Nevada to provide services for those workers. That means new jobs in restaurants, housing construction, retail stores, and all the other places workers spend money.

This resolution recognizes the fact that the federal government can streamline permitting when it puts its mind to it. The federal government did it for renewable energy projects, so why not for mining permits, which are just as critical but for different reasons. We all know how hard it is to get the federal government to change course, but it is important that we as Nevada legislators try our hardest.

The resolution outlines some concrete and measurable steps that Congress and the federal agencies can take to speed things up. I believe that these requests are reasonable and attainable, and I hope you will agree and support this resolution.

Chair Segerblom:

Are there any questions for Senator Rhoads?

Assemblyman Grady:

Senator, I agree 100 percent with you. We have been trying for four years to get a mine in my district licensed. It was finally licensed, but we need economic help in our district and welcome your resolution.

Chair Segerblom:

Are there any other questions or comments? [There were none.] Is there anyone here in support of the bill?

John Wagner, State Chairman, Independent American Party:

Anything that helps industry in the State of Nevada is good, and I fully support this resolution.

Wes Henderson, Deputy Director, Nevada Association of Counties:

Mining is very important to the economies of many of our counties, and Senator Rhoads is absolutely correct. The permitting process takes an extraordinary amount of time, and we certainly would appreciate your support

of this resolution urging the federal government to speed up the process and allow responsible mining operations.

Pat Sanderson, Private Citizen, Nevada:

I am the son of a hard rock miner who moved to Nevada. We have family working year-round in mines in the rural areas. Whatever we can do to help them out will help the state and help our unemployment problem. Whatever jobs we get will be a boon to the state.

Chair Segerblom:

Does anyone else want to testify in support of the bill? [There was no response.] Does anyone want to testify against the bill?

Kyle Davis, representing Nevada Conservation League:

I did not speak against the original version of this resolution because I thought the original version was an appropriate way to go about this. The problems we have with the resolution as amended by the Senate is that we feel, when looking at the "Resolved" section, it is now a little too prescriptive. When it talks about, ". . . approve or deny any project that requires a notice within 15 calendar days . . . within 4 months after the date of submittal . . . within 12 months" These are all arbitrary time frames that do not take into account the various different circumstances from one mine to the next. I understand that it is a lengthy process, but mines certainly do have environmental impact, and it is important to evaluate that, which is what the federal environmental process is for.

Although I do not necessarily have a problem with the concept of wanting to streamline this and make it run as efficiently as possible, once we start talking about specific time frames in the bill and calling upon Congress to act upon those specific time frames, I think that is not associated with the realities of each individual project. If enacted, keeping within specific time frames could result in cases where all environmental reviews are not taken into account and all impacts are not taken into account.

I would urge the Committee, on looking at a resolution like this, to take a second look at the bill as it was originally introduced. I think that was a more appropriate way to go about it rather than including specific time frames in the resolution.

Chair Segerblom:

Thank you. Are there any questions or comments? Does anyone else want to speak in favor, in opposition, or as neutral on the bill? [There was no response.] Seeing none, I will close the hearing on the bill.

We have one more bill listed on our agenda that Senator Horsford is sponsoring, so we will recess for a few minutes to see if we can get him up here to present his bill. [The Committee was in recess from 3:09 p.m. until 3:11 p.m.]

We realize that Senator Horsford is not going to make it today, so we are not going to hear Senate Bill 170 (1st Reprint).

Senate Bill 170 (1st Reprint): Revises provisions governing petitions for initiative or referendum. (BDR 24-537)

[This bill was not heard.]

Chair Segerblom:

We are going to reopen the hearing on Senate Joint Resolution 8 (1st Reprint) and take a vote. I am ready to take a motion on S.J.R. 8 (R1).

ASSEMBLYMAN GOICOECHEA MOVED TO DO PASS
SENATE JOINT RESOLUTION 8 (1st REPRINT).

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN DALY VOTED NO.
ASSEMBLYMEN CONKLIN, OCEGUERA, AND SMITH WERE
ABSENT FOR THE VOTE.)

Is there any public comment? [There was no response.] Seeing none, we are adjourned [at 3:13 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblyman Tick Segerblom, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: May 10, 2011

Time of Meeting: 2:38 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.J.R. 14	C	Ben Graham	Written Explanation plus Letter in Support