

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

**Seventy-Sixth Session
May 12, 2011**

The Committee on Legislative Operations and Elections was called to order by Chair Tick Segerblom at 2:36 p.m. on Thursday, May 12, 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 John Ocegüera
Assemblyman James Ohrenschall
Assemblywoman Debbie Smith
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Steven A. Horsford, Clark County Senatorial District No. 4

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Ande Engleman, Private Citizen, Carson City, Nevada
Mario DelaRosa, representing Progressive Leadership Alliance of Nevada
Betty Hicks, Private Citizen, Washoe County, Nevada
Theresa Navarro, representing Progressive Leadership Alliance of Nevada
Carla Castedo, Student, Washoe County, Nevada
Rob Joiner, Private Citizen, Carson City, Nevada
Lonnie Feemster, President, Reno/Sparks Chapter, National Association
for the Advancement of Colored People
Ronald Dreher, Private Citizen, Reno, Nevada
John Wagner, State Chairman, Independent American Party
Jan Gilbert, representing Progressive Leadership Alliance of Nevada
Cadence Matijevich, Legislative Relations Program Manager, Office of the
City Manager, City of Reno
Robert Cashell, Mayor, City of Reno
Jessica Sferrazza, Council Member, City Council, City of Reno
Rebecca Gasca, Legislative Affairs Director, American Civil Liberties
Union of Nevada
Kathy Clewett, Manager, Government Affairs, City of Sparks
Shirle T. Eiting, Senior Assistant City Attorney, City of Sparks
Matt Griffin, representing Pew Center for the States
Lynn Chapman, Vice President, Nevada Families
Caren Jenkins, Executive Director, Commission on Ethics
George M. Keele, Member, Commission on Ethics
Scott Gilles, Deputy for Elections, Office of the Secretary of State
Sam McMullen, representing Las Vegas Chamber of Commerce
Danny Thompson, Executive Secretary-Treasurer, Nevada AFL-CIO

Chair Segerblom:

[Roll was taken.] We have a couple of announcements this afternoon. For those who have not heard, the Vice Chair passed the Nevada Bar today. Second, I have a bill draft request I would like to introduce. It is BDR 34-1293 and involves districts for the Board of Regents. Do I have a motion?

BDR 34-1293—Revises the districts from which the members of the Board of Regents of the University of Nevada are elected. (Later introduced as [Assembly Bill 570](#).)

ASSEMBLYWOMAN FLORES MOVED FOR COMMITTEE INTRODUCTION OF BDR 34-1293.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

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

We are going to turn our attention to Senator Leslie's bill, [Senate Bill 304](#). She contacted me and indicated that she would be chairing her Senate Committee on Revenue at this time and would not be able to make an opening presentation on this bill. Her remarks are on the record in our Nevada Electronic Legislative Information System (NELIS) ([Exhibit C](#)), so we will start from there. Will anyone in favor of the bill please come forward?

[Senate Bill 304](#): Provides for redistricting of election districts in Carson City and the Cities of Henderson, Reno and Sparks, contingent upon voter approval. (BDR S-731)

Ande Engleman, Private Citizen, Carson City, Nevada:

I am a 32-year resident of Carson City. In 1992, some friends and I were able to get this very idea on the local ballot in Carson City. The vote on the measure tied. There were 8,507 votes for it and 8,507 votes against it. After that, the Board of Supervisors refused to ever allow the question on the ballot again. I am very much in favor of this bill and urge you to pass it. I am also speaking for Assemblyman Pete Livermore, who represents Assembly District 40 and also supports this bill. It merely puts this question on the ballot. He believes the public has the right to vote on this.

Chair Segerblom:

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

Mario DelaRosa, representing Progressive Leadership Alliance of Nevada:

I support this bill. There is a huge disparity between the percentage of people of color living in these cities and them getting representation, so this bill needs to be passed. I submitted a chart ([Exhibit D](#)) showing the number of people of color living in four cities. In the City of Reno, 37.5 percent are people of color. In the City of Henderson that percentage is 31.3. In the City of Sparks, 38.6 percent are people of color, and in Carson City, 29.3 percent are people of color. These statistics show how important this bill is for people of color.

Chair Segerblom:

Thank you very much. Are there any questions? [There were none.]

Betty Hicks, Private Citizen, Washoe County, Nevada:

I have been a citizen of Washoe County since 1972. In the entire time I have resided in either the City of Reno, the City of Sparks, or in Washoe County, I have not seen a person of color represented on any of those three boards. The numbers Mario just presented show that over one-third of the City of Reno's population is people of color yet they are not represented on any of its boards. That makes no sense to me. I ran for a Washoe County Commission seat during the last election cycle. The people who choose their representative in the primary should be the same people who choose their representative in the general election. It makes no sense to have the selection be citywide after the primary is so restrictive. Please vote for this bill. I understand it has already passed unanimously through the Senate, and I would like to see the Assembly pass it too.

Theresa Navarro, representing Progressive Leadership Alliance of Nevada:

I have been in this community for over 38 years and am a community activist. Passage of this bill would help our communities of color have representation on city councils, county commissions, et cetera. People want to run for office; they do want to represent their communities, especially communities of color. The problem is financial. Candidates first must run in a primary and then in a general election, where they need more money. In the past I ran for office, and winning my primary was easy. When I went into the general election with very little money, it was very hard to win. People need to be represented. This is a very important bill, and I hope you will pass it.

Chair Segerblom:

Thank you very much. We have now heard the gist of your arguments. If you have something new, please come forward; otherwise a "Me, too" is fine.

Carla Castedo, Student, Washoe County, Nevada:

Having heard that, I also support this bill, so please pass it.

Rob Joiner, Private Citizen, Carson City, Nevada:

Today I am representing myself as a former local candidate. I want to support the sponsor of this bill, Senator Leslie, and briefly reiterate some of her points. This makes running for elected office much less regressive. When I knock on doors, as you know because you all run in districts, the perception is that one is running in one's ward. This bill would make that perception a reality, and that is very important. It is much more effective cost-wise to run in one's ward. The issue has been brought up that one would represent only his or her ward. I do not buy into that at all. If one is elected, one is elected to represent the entire city. I know everyone in the town, and this just makes a level playing field and gets us to where most of the cities are anyway. Above all, this just puts it to a vote of the people. Give the people a chance. As Ms. Engleman said, in Carson City we have not been able to vote on this issue since 1992.

Chair Segerblom:

To clarify, right now do you file and run in the primary in a ward?

Rob Joiner:

No, you run citywide in both elections.

Chair Segerblom:

But you have to live in a ward to file?

Rob Joiner:

That is correct.

Chair Segerblom:

But you run citywide for both the primary and the general elections?

Rob Joiner:

Yes, sir.

Lonnie Feemster, President, Reno/Sparks Chapter, National Association for the Advancement of Colored People:

This is an important issue. There are different perspectives on it, but I think the existing condition has discouraged many people, particularly minorities, from running for office. I ran a campaign for someone running for city council and analyzed the voting patterns afterward. This would not fix all the problems, but it would increase the levels of voting, volunteerism, and participation in local government because people would feel that they do have some political power, so I support the passage of this bill.

Ronald Dreher, Private Citizen, Reno, Nevada:

I am representing myself today and asking you to support S.B. 304. I ran for city council twice in Reno, and can tell you that the best way to do that is by ward. You, the Committee members, run by districts, and it is the same situation. It will obviously open up a whole different field of candidates, provide some financial recourse to us, and possibly allow us to win.

I also am requesting your opposition to the City of Reno's proposed amendment to section 17. It reads, "Shall the five city council members representing wards continue to be voted upon by the registered voters of the city at large in the general elections?" It is not as clear as the language in section 17 that was passed out of the Senate.

John Wagner, State Chairman, Independent American Party:

Me, too.

Jan Gilbert, representing Progressive Leadership Alliance of Nevada:

Our main concern, and particularly with this proposed amendment, is that it would delay implementation of the law until 2014. The voters in Reno, Sparks, Carson City, and Henderson have waited a long time to have someone represent their communities just as all you represent your districts. We want the candidate to run in his ward, represent his community, and walk his district, just as in every other major city in this state. These are the last four cities that do not run by ward. We urge your support for this. We will also be grading this. As you could see by Mr. DelaRosa's chart ([Exhibit D](#)), even with the predominance of communities of color in all those districts, they were unable to elect a person of color, and it is about money. As you know, running is a lot about raising money. If you grow up in your community and run in your district, you have a much better chance than having to run citywide. This passed unanimously in the Senate, and we urge your support.

Chair Segerblom:

Does anyone else want to speak in favor? [There was no response.] Now we will hear from those who are opposed to the bill. [There was no response.] We will now turn to those who are neutral or have amendments.

Cadence Matijevich, Legislative Relations Program Manager, Office of the City Manager, City of Reno:

We are neutral on the bill and not opposed to taking this question to the voters of our city. We have a couple of amendments we would like to bring forward to you ([Exhibit E](#)). The change in this bill for the City of Reno is a little different than it is for the other three communities because it is going to change the makeup of our city council. We currently have an at-large member on our city

council. In addition to changing the way we elect people to our city council, this bill would eliminate that at-large position and create a sixth, and additional, ward in Reno if the vote to the ballot question as it is written in the bill is affirmative.

As I look through the bill, there are some mechanical issues that also need to be addressed. I want to quickly go through our amendment, beginning with section 8, which has to do with the effects of redistricting. If we have to create a sixth ward, we will have to redistrict. In our charter, the City of Reno requires that City Council members reside in the ward they represent. We are seeking to have language inserted into our charter, if the vote requires us to do so, that would allow a council member to continue representing his or her ward for the remainder of the term if the results of any redistricting place that individual's residence outside the ward's boundaries. You will see that language in the bill in section 8 on page 7. The language in our mock-up begins at line 15, on page 7, where we would add "except that changes to the ward boundaries pursuant to the provisions of Sec. 1.050 and Section 13 of this act do not affect the right of any elected Councilman to continue in office for the term for which he or she was elected."

In section 9, we seek to revise the year in which a Reno City Council member would be elected to represent that sixth ward, if we are required to create it. We will be electing a new council member to the at-large position in November 2012. The council member who serves in that position now is term-limited and will not be eligible to run, so someone will have to run for that office in 2012. The way the bill reads now, it requires us to elect the member to the sixth ward in 2014, in effect limiting the person who runs for the at-large position in 2012 to a two-year term. I have spoken to Senator Leslie about that, and she indicated it had not been her intention to shorten the length of any term for someone who would run in 2012. So we seek to change that so that the person running for the new sixth ward would run in 2016 to allow the person elected in 2012 to serve a full four-year term. Those amendments are in section 9, on page 8, beginning on line 21 of our mock-up.

Section 17 concerns the ballot language. We have a change in section 18 that speaks to the ballot question language. Reno Mayor Bob Cashell and Councilwoman Jessica Sferrazza will explain why they feel strongly that this ballot question language needs to be changed.

Assemblyman Hickey:

If your amendment is not accepted, would there be grounds for this council member, should he or she be required to vacate the position before the term's end, to sue or protest over that shortened term?

Cadence Matijevich:

We do not have a legal opinion on that. Our attorneys have looked at the bill language, and that is why we are bringing these amendments. The Senator seemed amenable to fixing these mechanical changes. I think she considers the amendment to the ballot question language to be unfriendly, but she indicated that she did not have problems with it. We have not pursued it further in hopes that the mechanical issues, if not the full amendment, would be adopted. In answer to your question, I think certainly that potential is there.

Chair Segerblom:

Mr. Hickey, for the record, it is my understanding that, as long as you know the length of your term, you can run for a two-year term, a one-year term, or whatever. As long as the person knew the term was going to be for only two years when he was on the ballot, it would be legal.

Cadence Matijevich:

The challenge for us is that the individual would not know that when he ran, because this question . . .

Chair Segerblom:

The ballot question would be on the same ballot, but he would know if the ballot question was approved, there would be that possibility.

Cadence Matijevich:

Yes, that is correct.

Chair Segerblom:

Again, if Senator Leslie does not mind, I think we would be prudent to push that election out to 2016.

Assemblywoman Kirkpatrick:

In the City of North Las Vegas we did this. It was a big fight, with everyone fearful of the effect and that the incumbents would lose. Well over 70 percent of the constituents passed it, because they wanted to be represented by their particular council person.

I do not understand the problem with changing the ward boundaries. In North Las Vegas, all our council members were also at-large. When the ward boundaries were changed, residents were invited to participate and talk about what was important to them. It was a public process. The first thing they had to do was start out with where a particular council person lived. There would be a certain amount of gerrymandering to ensure the council member lived in a particular area, but North Las Vegas was able to draw boundaries. They

cleaned it up during the next census redistricting. I do not understand why this language is necessary, because you cannot just draw your council person out. When you create a new district, if there is no one there already or you have to appoint someone, you have to take that into consideration.

From my perspective as a North Las Vegas resident, it has been a huge improvement. I no longer have to call the city manager's office to find out who wants to help me. Depending on what hot potato issue I am calling about, I could be passed around to all the council members. As a resident, it is my responsibility to not only talk to the person who represents me, but to the rest of the council. At the end of the day, you still have to count votes. If you are passionate about an issue, it is no different than what we have to do here. It has made a huge difference, so I am perplexed about why this would be so much different from North Las Vegas. We did it even though people said we could not. Every single incumbent won by over 60 percent even though they thought they would lose. They were more entrenched in their community than they thought they were, and now they are accountable to the people who live in their districts.

Chair Segerblom:

Is that a question?

Assemblywoman Kirkpatrick:

Could you address that, because I do not understand how your situation is different from ours in North Las Vegas.

Cadence Matijevich:

We were hoping to avoid having to gerrymander the districts. Currently, there is quite a bit of conversation in our community as to the way our district boundaries are drawn. If this goes through, and perhaps even if it does not, we may be looking at a very different way of drawing our ward boundaries based on the makeup of our communities and being sure we have equal representation in all our wards. We did not want to gerrymander the districts to keep from redistricting someone out of his or her ward.

All but one of our sitting city council members are currently termed out, so for us, the issue is not about the incumbents. As you all know, we cannot redistrict in a year in which an election is going to be held. If we have to do this, and the election is going to be held in 2016 for that newly created sixth ward, we will have to go through that redistricting process no later than 2015. We did not want to force someone out of office or have him not be in compliance with our charter, because we were trying to draw the ward

boundaries in such a manner as to benefit the community and not the people sitting in the seats.

Assemblywoman Kirkpatrick:

I believe it is important that people are represented. In North Las Vegas, three city council members lived within the same homeowners' association and we were able to draw boundaries for them. We survived it, and there was a legal way to do it. You still have to have community input when you draw these lines, so whoever would be sitting in that seat would be able to take part in it. For us, it worked out better because one district was primarily a minority district. The sooner voters can vote on this and it can be enacted, the better. In our city, citizens had been asking for this for 20 years. It builds communities for the long term.

Robert Cashell, Mayor, City of Reno:

All our council members are elected in their districts in the primary right now. The only two who are not are the Mayor and the at-large member. They are elected from their districts in the primary, and then they run in the general election. I am glad the people are going to vote on this subject, but there is something that bothers me a little bit. In another state where redistricting took place and was done by wards, all of a sudden the districts were cut up and one ward contained all the low-cost housing and homeless shelters. The citizens in that district had not wanted that. Our elected officials still have to answer to the people in their wards right now, and that is where they are elected from.

Assemblywoman Flores:

I want to echo the sentiments made by my colleague. I do not support this amendment in any way. This is an issue of fairness. People are accountable to their wards, yet they are not elected in their wards; they are elected citywide. That does not make any sense to me. I do not support this amendment; the original bill should be passed as is.

Assemblyman Daly:

In Sparks, the City Council has some say concerning where ward boundaries are drawn, and they get recommendations. Is that the same in Reno?

Cadence Matijevich:

Yes, that is the case.

Assemblyman Daly:

I am aware that Reno has six city council members, but only five wards are drawn. In 2012 you will have a vote for an at-large member, and that person is not going to know the length of term or he might assume the term is going to

be four years. If this passes on the 2012 ballot, it will take some time to implement, because you need to redraw the whole city from five wards to six. You are saying you want to be able to draw the wards more efficiently using normal procedures, which may end up drawing a person out of his district. Your amendment says if the individual is no longer in his district, he may still finish his term. At the end of that term, that person must either run against someone who already lives in that district too, or the person must move to a different ward. If my understanding is correct, I am not sure this cannot be worked out. If other people understand this differently, and it is causing some angst, we need to communicate.

Cadence Matijevich:

You understand it correctly. When I spoke with Senator Leslie, she did not seem opposed to what I am calling "mechanical" fixes to those issues. The portion of our amendment she did not believe to be in keeping with the original intent of her bill is our alternate language for the ballot question. She feels very strongly about the language that is included in the bill, but we have alternate language, and I think that is where the disagreement is. I agree with you that those other issues can be worked out perhaps. There is not compromise on the language.

Chair Segerblom:

Let us move forward to the ballot question, if that is where the controversy is.

Jessica Sferrazza, Council Member, City Council, City of Reno:

That is why I am here. I represent Ward 3 on the Reno City Council. Ward 3 is the most diverse ward in the city. One-third of the people in my district are Hispanics, and I represent the largest group of African Americans. I am very passionate about this issue for several reasons. The way our system is structured, you get elected in the district and you run citywide in the general election. Before I was elected to the council, the districts were drawn such that five members of the city council were essentially from the southwest portion of town. As the Mayor alluded to earlier, Ward 3 contains all the affordable housing, the homeless facility, and everything no one else wanted in his district. We are different from the state Legislature, because we make land use planning decisions every week. Last night there was an issue that had a 3-3 vote. We recently received national recognition for our Wells Avenue and Montello neighborhoods. I have worked with all these people sitting behind me on this neighborhood project. I would not have been able to do that if the council members were not elected by everyone in the City of Reno. This bill would disenfranchise the voters because they are not being given the opportunity to elect every council member who makes land use decisions that directly affect them.

I do agree with the bill's sponsor about how expensive it is to run a citywide election. That is an issue. Also, getting minorities to run is an issue. I work very hard on our neighborhood advisory boards and other boards to get representatives and make certain we have diverse representation on the City of Reno's boards and commissions. I have no issue going to the voters, but I do believe the question should be fairly worded. It should explain how the voters vote for their elected representatives now on the city council and how this ballot language would change that. As the Mayor said, this does not affect me or him because we are termed-out of our positions, but I think it is bad public policy not to allow the voters to have a voice about who represents them at the city level.

Chair Segerblom:

We are not voting on that today. Could you focus on the language your amendment deals with? We are interested in that, and it would be greatly appreciated.

Cadence Matijevich:

The language in section 17 of the bill on page 11 of our amendment is the same ballot question language used the last time this question was posed to our voters in 1993. The voters at that time voted to continue electing members to the city council as they had previously. That language reads, "Shall the five city council members representing wards continue to be voted upon by the registered voters of the city at large in the general elections?"

Chair Segerblom:

Can you explain why you are changing the ballot-question language from what the bill says?

Cadence Matijevich:

You heard from Councilwoman Sferrazza about why she feels as strongly as she does about it. It is the position of our council that the method we are currently using is the appropriate method for our community. The ballot-question language in section 17 is the ballot question language that will be on the ballot in the City of Reno. We are not asking to change the ballot question language for the other communities affected by this bill. They have their own ballot question section in the bill; this would just change it for Reno. The position of our city council has been that we want this language.

Chair Segerblom:

I understand that you want the language, but do you think the language in the bill is misleading? Is it hard to understand or confusing? There must be a reason why you are proposing different language.

Jessica Sferrazza:

When people vote in the general election, the language provides "that each Council Member must be elected in a general election by only the registered voters of the ward he or she seeks to represent." People would assume that they want to vote for the people who represent them in their districts. I have no problem going to the voters; I am not sure our language is the best, either. I do believe there should be some explanation on the ballot question that would differentiate between the current system and the way the proposed ballot language would read.

Assemblywoman Kirkpatrick:

Is that not done when the pros and cons are put on the question? It would be the duty of each side's committee to specify that. I refer back to North Las Vegas, which had the same concerns about this change. People do not necessarily realize that they are voting at large because you are representing your ward when you come to their home, but you are still getting your votes from across the valley. In North Las Vegas, having the three city council people living in the same neighborhood, we tracked it and were able to see that one of the council members got 99 percent of her votes from the oldest part of the city. This is pretty clear to me: yes or no. Do you want it to be a ward system or not? Under the language listing pros and cons, there would be the ability to explain, "This is currently what we do, and here are your two choices." To me, the other way muddies it for the constituents. Voters are going to say, "I thought we were voting in our wards already." I am wondering why we would not use our ability to write the ballot question pros and cons.

Jessica Sferrazza:

I would argue that nothing is wrong with the City of Reno's amendment because that is what the voters voted on in 1993 with 68 percent of the vote. I realize things have changed, but if that is the case, what is wrong with our question?

Assemblywoman Kirkpatrick:

I would ask to look at the U.S. Census. How much has Reno grown and how many new people are involved in the process? I am not arguing either way; I am just saying I believe that is the reason we allow people to explain the ballot questions. That is the first thing I read on constitutional proposals. I am a member of the Legislature, and I voted to put that question on the ballot, but I like to see what people who were not here during the hearings on these bills are talking about.

I am not here to be argumentative. Maybe in 1993 or in 1998 it was clear to a lot of people, but there are so many new people who have voted only in a ward system, and they would not know any different.

Jessica Sferrazza:

I do not have an issue with the sixth position. The city has grown enough that the sixth position may be necessary, and a lot of the issues raised about the boundaries are legitimate. That is why, when we did our redistricting, each council member had a portion of the urban area. There is currently no gerrymandering. To address your concerns about how the ballot language reads, I guess I am just not seeing what the difference is.

Robert Cashell:

Two people are elected from a district and go forward. They are then voted on again citywide. They vote on citywide issues. Are we going to limit them to voting only on issues affecting their districts? Maybe the districts take a good look at the candidates they send forward or work to elect them. The system we have works well, and the people in Reno have liked it so far. If we can get the wording fair and even, let it be put to a vote of the people.

Chair Segerblom:

Mr. Mayor, do you feel the language currently in section 17 is not fair? To me, that is the question we have to answer when we vote on this amendment.

Robert Cashell:

It needs to be worded to say something like, "Do you like what we are doing now, or do you want to change the charter to do it by ward only?"

Chair Segerblom:

The current language reads, "Shall the Charter of the City of Reno be amended to provide . . . ?" That tells me people are voting either to change the way they are doing it now or to keep it the way they currently do it.

Jessica Sferrazza:

The way the question currently reads it just says ". . . be amended to provide for a ward system for the election of Council Members . . . ?" What would be wrong with having an amendment that says either elect them by wards or citywide, the way it is currently done?

Assemblywoman Kirkpatrick:

I understand what you are saying. At the same time, there has to be a reference to whether the voter wants change. "Shall the five city council members representing wards be voted by the city at large or shall the charter be

amended to vote by wards?" There has to be clarity. I bet when my husband was voting at large, he did not necessarily know he was voting at large. He thought he was voting for a person who lived in the district. If you are going to do that, you have to tell the voters the opposite way. When the question is placed on the ballot, the arguments must present both sides. The question could read, "This would allow you to vote for your city council person who would represent this particular district." If you were opposed to it you could say, "We already have a great system that works, and we have been voting at large." You have arguments for the constituent to decide between. Sticking with the same language does not allow an explanation concerning what it would be changed to. That is my point. If people are going to make a decision, and we know ballot issues must keep to a single subject, this does not give the ability to have the other side as part of the argument. Whether you are for or against, you have to present both arguments or you must be able to explain what they are trying to change to so you can have that argument as well.

Robert Cashell:

Mr. Chairman, basically that is what we want to do—clear it up so the voters know what they are voting for.

Chair Segerblom:

On the ballot, in addition to the question, do you have pros and cons?

Cadence Matijevich:

We have not developed pro and con committees, but when the question language in our amendment was on the ballot in June of 1993, there was an explanation. The explanation said, "A yes vote is for district voting in the primary election and in the at-large seat in the general election. A no vote is for district voting in both the primary and the general elections." We could write the language the same and in the explanations we could indicate that a no vote would enact the provisions of Senate Bill 304, which would have the effect of changing the way our city council is made up. It would change the at-large position to a sixth ward. The opportunity to provide that explanation would be there with the existing language in the bill or with our amended language.

Assemblywoman Kirkpatrick:

That is well and good, but if I were a new resident of your city, I would have difficulty understanding that language. The ballot committee to prepare the pros and cons is supposed to be made up of the residents within the city. For residents to understand, I think you could combine both languages so that there would be a fair compromise. I think there is a compromise on this language, and that it will bring real transparency to what the voters are voting on.

I do not want to write the language, but I know there is some language in the middle.

Robert Cashell:

I want to clarify that this does not affect any current elected officials in the City of Reno except one person. I am termed out in three years, and Jessica Sferrazza is termed out next year. It really does not affect us except that we want to see it done just as you have suggested so that everyone understands what he or she is voting on. That is all we ask.

Assemblyman Grady:

If I am not mistaken, when there is a ballot question, it is understood who writes the pro and who writes the con and how many words they have to be. It is not the mayor's office; it is independent people in support or opposed who write those questions.

Jessica Sferrazza:

The wording of the question is important, because the bill's sponsor did not like the way the question was worded in 1993. I think how it is worded on the ballot is important. You will have the pro and con arguments, but the way it is worded now, anyone would assume that it would be preferable to vote for the council member from that person's district without knowing the whole story and the way we vote now. I agree with you that people do not know they get to vote for all the council members. People frequently mention that, but at the same time, we get feedback that they like the situation because the decisions the council makes regarding land use affect everyone in the city.

Chair Segerblom:

It is also easier to pass something if the vote is yes as opposed to no, but I am sure no one thought about that.

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

We are in favor of the bill.

Assemblyman Daly:

I have a proposed amendment that is on NELIS ([Exhibit F](#)). I have also checked with the bill's sponsor, who indicated it would be okay as long as it did not hurt the bill's chance of being passed. It would amend the Sparks City Charter where it mentions all the elective offices in Sparks. I propose an amendment to the language that reads "would have to be a bona fide resident of Sparks" that would add "except for the city attorney." We would change that to "resident of Washoe County, an elector in Washoe County, and remain a resident during the

term." Sparks has around 80,000 people, but there may not be as many qualified lawyers living in Sparks who want to run or practice that type of law. Opening it up to Washoe County would be beneficial to the citizens of Sparks, which is why I am proposing the amendment. Hopefully, I will get favorable consideration from the Committee on that.

Chair Segerblom:

Does anyone have any questions of Mr. Daly? [There was no response.] We will discuss it at greater length when we do a work session on this bill. Thank you for bringing that forward. In light of that proposed amendment, is someone else coming to the table?

Kathy Clewett, Manager, Government Affairs, City of Sparks:

We just saw this amendment, and it has an impact on the City of Sparks. It also completely bypasses our Sparks Charter Committee, a citizen-driven committee. I request some time to figure out exactly how this will have an impact on Sparks. With me to testify on another bill is Senior Assistant City Attorney Shirle Eiting, and she has some ideas on this as well.

Chair Segerblom:

Do you live in Sparks?

Shirle T. Eiting, Senior Assistant City Attorney, City of Sparks:

I live in a Washoe County enclave completely surrounded by the City of Sparks, and at some point I assume Sparks will annex our neighborhood. My daughter attended school in Sparks, and I lived in Sparks for 20 years. It is important to remember that although the City of Sparks is small, we have quite a few attorneys living within the city, and if they chose to run, they could. It is also important that elected officials be responsible to the people they are representing. As we heard concerning the other parts of this bill, if someone from outside the City of Sparks were to run for city attorney, I believe the sense of responsibility could be lost, the personal connection could be lost, and we could also lose a person who knows whether the parks department is in good stead or whether the police department is doing what it is supposed to be doing. I believe a person within the City of Sparks would not want an attorney from southwest Reno representing him or her. No offense to the attorneys in southwest Reno, but I do not want one as my city attorney in the City of Sparks. I think it is very important to have that personal connection. I know there are a number of attorneys within the city who could run if they so chose.

Chair Segerblom:

As I said before, this bill is not going to be voted on today; it will be taken up in a work session next week. Seeing no further comments about S.B. 304, we will close the hearing and move on to Senate Bill 390 (1st Reprint).

Senate Bill 390 (1st Reprint): Revises provisions relating to the statewide voter registration list. (BDR 24-1117)

Matt Griffin, representing Pew Center on the States:

We bring S.B. 390 (R1) to you on behalf of the Pew Center on the States. Senate Bill 390 (1st Reprint) originated a couple years ago with the Pew Center. They grabbed as many Secretaries of State and local election officials as would participate and put together a group that would make voter registration rolls more accurate and verifiable. This legislation was developed by elections administrators from all parts of the country and from all parties. They proposed what became S.B. 390. The bill allows the Secretary of State to obtain and use information from other state agencies, provided those other state agencies are willing to participate. That information, the statewide database, would be shared with other states. The other states that participate in this program would share their information with the State of Nevada as well.

It is essentially no different than what already occurs between counties in the State of Nevada. If I move from Carson City to Washoe County, Carson City and Washoe County will coordinate. They will know that Matt Griffin no longer lives in Carson City. I will be removed from the Carson City roll and be placed on the Washoe County roll. That is the essential purpose of this legislation. If Matt Griffin moves to California, California would be aware that I am there, that I have registered to vote in California. They would notify the State of Nevada that I was no longer a citizen in Nevada and no longer eligible to vote. Then the State of Nevada could take the proper steps to remove my phone number registration from the voting rolls.

It is a pretty straightforward piece of legislation. The whole purpose of it is to make our voter registration roles more accurate. It is simply a data sharing program between the State of Nevada's agencies and participating states.

Chair Segerblom:

Is there a fiscal note?

Matt Griffin:

No, there is not. The overseeing officer on this from Pew is a former Department of Justice official in the voting rights section. There have been numerous legal opinions that Help American Vote Act (HAVA) funds are

permissible to use for this implementation. To the extent that the State of Nevada will be required to pay a fee to participate in this, the projected fee over the course of five years would be between \$25,000 and \$75,000 a year. That money all comes from HAVA, so there would be no expense to the state or to its General Fund.

Chair Segerblom:

Are there any questions for Mr. Griffin?

Assemblyman McArthur:

You mentioned participating states. What other states are going to participate?

Matt Griffin:

The State of Utah just passed legislation almost identical to what is before this Committee today. The Commonwealth of Virginia has also. I do not know exactly how many states are in the process of adopting legislation, but through the Secretaries of State, between 12 and 15 states have agreed to participate in the first round. The states are predominantly from Colorado and west from there.

Assemblyman McArthur:

I was curious about the states around us.

Matt Griffin:

California, being the elephant in the room, will take longer to get implemented into the process.

Chair Segerblom:

Are there any other questions? [There were none.] Is there anyone here who is opposed or neutral to the bill?

Lynn Chapman, Vice President, Nevada Families:

We have some concerns about this bill, one of which is that the voter list would then be out of local control. We also are concerned about privacy issues. Who would have access to this information? If the information goes to other states, we are concerned about who would have access to that private information. The cost is also of concern. I know it would use HAVA money, but that still has to come from somewhere, so we are concerned with that as well.

Chair Segerblom:

Are there any questions? [There were none.] Seeing none, we will close the hearing on S.B. 390 (R1) and open the hearing on Senate Bill 391 (1st Reprint).

Senate Bill 391 (1st Reprint): Revises provisions relating to ethics in government. (BDR 23-1116)

Caren Jenkins, Executive Director, Commission on Ethics:

Senator Parks indicated a desire to introduce this measure on behalf of the Senate Legislative Operations and Elections Committee, which introduced it on behalf of the Ethics Commission. Evidently, he was not able to get here.

I would like to point out several things this bill does that are not related to cleanup. First is moving the filing of financial disclosure statements for elected officials in its entirety to the Office of the Secretary of State, creating a lot more efficiency in government. Currently, elected public officers file with the Secretary of State while appointed public officers file with the Commission on Ethics. There are measures other than this one that adjust how that all happens. The relevant portion of this bill consolidates it with the Secretary of State.

Second, it creates an obligation that every public officer and public employee, both at the state and local levels, engage in training about ethics in government laws within six months of achieving their office—elected, appointed, or hired. That has no fiscal impact. The State of Nevada Department of Personnel has indicated a desire to work with the Ethics Commission to create an online version of that training, so it would be much more accessible to each and every person. There will be fewer instances of "Oops." Most of the individuals against whom complaints are filed with our Commission are people who do not realize that their behavior or conduct is governed by portions of *Nevada Revised Statutes* (NRS) Chapter 281A.

[The Chair turned the meeting over to the Vice Chair.]

Vice Chair Flores:

Let me allow Mr. McArthur to ask his question.

Assemblyman McArthur:

What sections of the bill are you talking about? I am concerned about the last part you mentioned.

Caren Jenkins:

Moving of financial disclosure statements to the Secretary of State's Office had been in NRS 281A.600 through NRS 281A.660. That probably appears in sections 1.1 to 2.25. The training component is in section 24, on page 38 of the measure. You might think that this requirement would cause a fiscal impact to the local governments but, for example, sexual harassment training is often

required in the same context, and the reporting is the same. It would go through the supervisors and so forth. We hope to prevent missteps.

Another function of this measure is to clarify the contracts that public officers and employees can have with governments, a topic that has resulted in a lot of requests for advisory opinions. There were sections in NRS Chapter 281 and Chapter 281A governing the contracting with governments at any level by a business with which a public officer has a pecuniary interest, when there are exceptions to the prohibition, et cetera, and that is a major part of this provision. That comes in NRS 281A.430 as well as in some of the sections of NRS Chapter 281A at the very beginning of the measure.

In the definition of public officer, the bill includes those individuals whose positions are established by law and whose positions are authorized to be established. Currently, superintendents of public school districts and hospital district chief executive officers (CEOs) are not included in the definition of public officer. Those individuals have an enormous amount of control over public money, but do not need to do financial disclosure statements, nor do they need to disclose their conflicts of interest in certain circumstances. Because of the requests for opinion that have come to the attention of the Commission, we felt this needed clarification in the statute, and that is in section 11 on page 15 of the bill.

One last thing I feel compelled to point out is our definition of "commitment in a private capacity to the interests of others." Currently, a conflict of interest is defined as "a gift or a loan, a pecuniary interest, or a commitment in a private capacity to the interests of others." On page 12, in section 3, you will see the current definition of "commitment in a private capacity to the interests of others" that is in our law. I am certain you are very aware of the *Nevada Commission on Ethics v. Carrigan* case, which was argued April 27 before the U.S. Supreme Court. The Nevada Supreme Court opinion on that case found that the "substantially similar" language in section 3, subsection 6, is unconstitutionally overbroad. We are currently awaiting a decision from the U.S. Supreme Court—we are hoping it will come in June of this year—determining whether that subsection is permissible under the *United States Constitution*. Currently, it is not enforceable because it was found to be unconstitutional by the Nevada Supreme Court. Our desire is to leave it in the definition but not apply it until that decision is rendered. Should we repeal that part of the definition, and should the U.S. Supreme Court rule that it is within the Commission's constitutional ability to enforce it, it would be left out. If it would be necessary to repeal it, I would hope that would happen during the next legislative session rather than in this one, giving us the

opportunity to have that definition intact in the event it is held to be constitutional.

With me is George Keele, a Commission member who has served on the Commission for nearly eight years, and who understands NRS Chapter 281A very well.

Vice Chair Flores:

Are there any questions from Committee members?

Assemblyman Ohrenschall:

You said there is a new definition of public officer in the bill. Can you direct me to it?

Caren Jenkins:

That is in NRS Chapter 281A.160 in section 11 on page 15. In subsection 2, it adds "A position is established by" these various laws, or "if the position is established or created directly by the source of authority" whether it be the *Nevada Constitution*, a statute, a charter, or an ordinance, or "if the source of authority authorizes a public body or officer to establish or create the position." There is no need, for example, in a community that has no hospital, to create a hospital district, or for the hospital district to hire a CEO. But if one does exist, that is permissive; it can hire a CEO. The CEO of the hospital district will be considered a public officer, and the same with school district superintendents.

Assemblyman Ohrenschall:

So under this new definition, if it is passed, would the definition of public officer also include the executive director of a state agency? Would it include the head of the Southern Nevada Water Authority? How far down would it go? Would it include deputies?

Caren Jenkins:

Currently, NRS 281A.160 has a two-part test: One, that it is created in law; and, two, it is an authority test—it is more qualitative. Does the individual have control over public funds? Does he have administrative discretion?

Concerning being created in statute, unless you can point to the place in the statute that says, "There shall be an executive director of the Commission on Ethics," the executive director is not a public officer, and that is the problem we had with school superintendents. Now it says, "If the school district may employ a superintendent;" not "shall," but "may." If those individuals are given the administrative discretion and authority over budgets along with the other

powers of a public officer, then those individuals will fall within the NRS 281A.160 definition.

Assemblyman Ohrenschall:

So it would be a case-by-case test, depending on the scenario, whether a certain executive director or whether the superintendent of a school district would qualify under this definition?

Caren Jenkins:

In every instance it is a case-by-case test. You have to fit yourself or the position to the definition to determine whether the person holding the position is a public officer just like everyone else. As you will see in paragraph (b) of subsection 2, it says, "(1) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy; (2) The expenditure of public money; and (3) The administration of laws and rules of the State or any . . . political subdivision." Not all employees are going to fit that definition, so, indeed, it is a case-by-case test, but I think it is a clearer case with the new language than it was before.

Vice Chair Flores:

Are there any more questions? [There were none.]

George Keele, Member, Commission on Ethics:

May I state it a little more bluntly than our Executive Director did, who, by the way, is a former Chair of the Commission on Ethics. She was with our general counsel, Commissioner Paul Lamboley, and me in Washington, D.C., two weeks ago before the Supreme Court for that case. In my opinion, what Ms. Jenkins just described about public officers is simply a gaping hole, an egregious omission in the statute. It makes no sense that superintendents of schools and others in that category are not public officers. Although the position is authorized by statute, we have found that if it is not mandated by statute, it holds no water. If you enact this proposal the way it is being presented today, this hole that has no rational basis for existence will be filled, and all the people who serve in those positions—such as a member of the North Panaca Power Association—will also be characterized as being public officers. It is that stark.

Yesterday, I attended a session on ethics that was broadcast to 26 states from Pennsylvania. The professor who taught the course said, "If there is one word I would use to characterize ethics in government, it is openness." The disclosure provisions already mandated by this Nevada Legislature in NRS Chapter 281A are absolutely essential to the good operation of government and to the stature of the State of Nevada. I think it is significant that the U.S. Supreme Court recognized an issue that derives from the statute you

drafted. The ultimate outfall from this case pending in the U.S. Supreme Court will assist in the singular goal of openness in public government. That is vital to the continued well being of ethics in government in the State of Nevada, particularly under NRS Chapter 281A and particularly as we are termed out and succeeded by others, as some of you members of the Legislature will soon be.

I appreciate everything our Executive Director, Caren Jenkins, has done to move this work forward. Last year, and out of her own pocket, she conducted a tour of the State of Nevada. I received many accolades on her behalf from friends who live in Lincoln, Clark, Esmeralda, and Douglas Counties. They so appreciated the fact that she was willing to go out into the state and teach the doctrine of NRS Chapter 281A. We appreciate the support you are providing. We recognize that many people have found their way to the wrong side of ethics issues in national and state government from the State of Nevada, but we think the tide is turning. You play a vital role in that, and we respectfully ask that you pass this legislation.

Vice Chair Flores:

Thank you for your remarks. Are there any questions? [There were none.] One person is signed in to speak in support. If there is anyone else, please come forward.

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

We do support this bill with respect to the provisions that place the duty to collect and oversee financial disclosure statements with the Secretary of State's Office. As this Committee knows well, similar changes have been made in a bill you passed this session. That bill also requires online filing of those financial disclosure statements. Again, we support that provision of this bill and look forward to collecting those statements in the future.

Vice Chair Flores:

Seeing that no one else has come forward to speak in support, we are going to move to those who are in opposition to S.B. 391 (R1).

Kathy Clewett, Manager, Government Affairs, City of Sparks:

We are here in opposition to certain parts of the bill. As has already been stated, there was a U.S. Supreme Court hearing two weeks ago, and we are still awaiting that verdict. As a whole, we believe there should be these kinds of rules to follow. Ms. Eiting will review our proposed amendment that would strike language that pertains to problems the City of Sparks believes are still too vague in the bill.

Shirle T. Eiting, Senior Assistant City Attorney, City of Sparks:

We have submitted a package with hard copies to Committee members, and this information is also on the Nevada Electronic Legislative Information System ([Exhibit G](#)). Contained within this package is a letter explaining our position, as well as citing the cases and some of the debate that occurred at both the State Supreme Court and at the U.S. Supreme Court. The strike-out language in our amendment is in red italics. The concern we have is the catchall provision that appears on page 13 of our proposed amendment, section 3, subsection 6. It was applied to Councilman Carrigan and is the provision we feel is vague and leads to due process violations.

The package we presented is very thorough. Part of our concern is the broad terminology and use of the word "significant." I know various definitions in the Nevada Ethics in Government Law have been revised, as stated in the Legislative Counsel's Digest at the beginning of the bill; however, when words such as "significant" or "substantial" are added, those are undefined terms. By using those terms, more vagueness is being added to terms that are already vague. I do not believe at this point leaving vague language that has already been stricken by the Nevada Supreme Court serves anyone's best interests. The language should be stricken from the bill, and we ask that you follow our proposed strikes as they have been submitted.

Vice Chair Flores:

Thank you very much. Are there any questions?

Assemblyman Hickey:

Should the U.S. Supreme Court's decision come down in favor of Councilman Carrigan or the bigger issue in general, could it possibly nullify this law without your amendment? Should we be waiting to see this outcome?

Shirle Eiting:

I believe so. I believe any decision on the particular language and the catchall provision is premature. We already know it is unconstitutional at the state level. The further changes being recommended in this bill, and leaving the language as it is, are inappropriate. Another option would be not to consider any amendments and wait for the U.S. Supreme Court to hand down a decision. The main point being considered by the U.S. Supreme Court concerns the catchall provision itself. The other language is not being considered.

Vice Chair Flores:

Are there any more questions? [There were none.] Does anyone else want to speak in opposition to S.B. 391 (R1)? [There was no response.] Is anyone

neutral on the bill? [There was no response.] Would the bill's sponsors care to give closing comments?

Caren Jenkins:

To clarify some comments made by the City of Sparks, the characterization of the fifth category of "commitment in a private capacity to the interest of others" has been characterized as being a catchall provision. Rather than being a catchall provision such as "and anything else that might be a conflict of interest," which is a sweeping provision, catching everything not yet enumerated, this is an enlargement of the four categories already enumerated. We are not saying, "and everything else that might be a conflict." What we are saying is, "and people who are substantially similar to a member of your household, substantially similar to your employer, substantially similar to a substantial and continuing business interest." It is an enlargement of categories already enumerated. It is not a catchall; it is an expansion of the enumerated categories.

The terms "vague" and "possibly affecting someone's due process" are arguments that are made before a court. The Legislature has never had any interest in due process before; I do not know why it would now. Those are arguments that are before the court now; they were before the court in the First Judicial District and again in the Nevada Supreme Court. The court did not rule that this statute was vague or had some problem with due process. Undefined terms such as "substantial," "significant," and "reasonable," are value judgments. They are exactly why this body and the Governor appoint eight independent minds to a Commission on Ethics to determine whether someone's interest is significant enough, substantial enough, or reasonable enough to fit within the prohibitions or the allowances of law. Statutes need to be flexible enough to apply to real-life scenarios. Words like "substantial," "significant," and "reasonable" need to be in our laws, and they are. They are in nearly every law on our books, not only here, but in every state in the nation.

George Keele:

There were almost a dozen amicus briefs filed with the U.S. Supreme Court from other jurisdictions citing virtually identical statutory language. In my opinion, the implications of striking down this legislation would be enormous nationwide. I think you are on very safe ground in moving ahead and enacting the statute as we have proposed it, and then awaiting the U.S. Supreme Court to the extent that it in any way changes the language we have proposed. The U.S. Supreme Court decision will control, and the balance of the statute will remain unchanged, in my opinion.

Caren Jenkins:

We were not presented with any amendments or suggested changes to this measure. We knew the City of Sparks was going to argue that the "substantially similar" language was unfair, but we have not seen any of the proposed changes. If the Committee is interested in considering those suggested amendments, I would really like an opportunity to look at them.

Vice Chair Flores:

Thank you. I am going to close the hearing on S.B. 391 (R1), and open the hearing on Senate Bill 170 (1st Reprint).

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

Senator Steven A. Horsford, Clark County Senatorial District No. 4:

Senate Bill 170 (1st Reprint) is a bill that gives more flexibility to our initiative petition process. As you all know, the system of allowing citizens to propose ballot measures for constitutional amendments and other statewide measures is a key component of the political system in our state. It allows for citizens and groups to bring forth important issues deserving statewide consideration. The process as it exists does not allow for proponents of a measure to withdraw it if the measure is deemed unnecessary and avoid unnecessary expense both to the state as well as to the proponents and opponents of a measure.

Senate Bill 170 (1st Reprint) is intended to address the issue of changing circumstances that may make ballot measures unnecessary after petitions have been submitted to the Office of the Secretary of State. It allows petition organizers to pull back a petition up until the March before a general election. As part of this new flexibility, the legislation proposes that a committee of five registered voters be formed as a petitioners' committee with the responsibility of circulating a petition and properly filing it. This petitioners' committee would be given the authority to withdraw a petition if four of five members attest to the Secretary of State that the petition should be withdrawn.

I would like to emphasize that this measure does not restrict the initiative process whatsoever. Citizens and groups will have the same ability to put measures on the ballot to affect our laws and our *Nevada Constitution*. They just will have additional discretion to withdraw measures they believe are no longer justified or necessary.

Vice Chair Flores:

Are there any questions? Do you have anyone else here speaking in support?

Senator Horsford:

I do not.

Assemblyman Stewart:

Could you tell us why you picked a due date in early March?

Senator Horsford:

It was an amendment offered by the Secretary of State's Office.

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

We asked that the original withdrawal date be changed so that we would not run into a situation in which the county clerks spend time and money preparing and printing ballots and then have that question withdrawn. The date now in the bill, 5 p.m. on the third Friday after the first Monday in March, reflects the statutory deadline for the last day a candidacy may be withdrawn. With this deadline, the clerks and the registrars will not potentially face unnecessary expenditures or use of time.

Vice Chair Flores:

Thank you. It sounds as though you have explained half your amendment. Do you want to continue with whatever other comments you had?

Scott Gilles:

We do not have any amendments to the reprinted bill, but the Secretary of State wanted to get on the record the fact that this newly formed group—the petitioners' committee—would be bound by the reporting requirements of *Nevada Revised Statutes* (NRS) Chapter 294A even though it is not set out as a specific group in that Chapter. They would either be subsumed under the definition of a ballot advocacy group as that exists now, or in the future if our legislation passes, of a political action committee. They would have to follow the same reporting guidelines, and we wanted to get that on the record.

Vice Chair Flores:

Are there further questions for Mr. Gilles? [There were none.] I will go back to testimony in support of the bill.

Sam McMullen, representing Las Vegas Chamber of Commerce:

We think this bill has a very good purpose. The issue of having a defined group that can withdraw an initiative may have value in a couple of situations. The reason we have the restriction against personal income tax in the *Constitution* is because someone was trying to run an initiative to outlaw personal income and revenue-based taxes and business income and revenue-based taxes. A counter initiative petition was circulated. Both petitions were filed on the right day, but

one did not qualify. The petition in defense did qualify even though it was no longer necessary. If the opportunity to withdraw that petition had been available, it would have been very interesting. Of course, that would have been after the period when we would have known whether they qualified, but the time frames in this bill would cover that situation.

There are some pros and cons to this measure, as you will hear from the other side. Having the ability to adjust people's opinion and decide that an initiative is not valid—even after the signatures have been gathered, it has been turned in to the Secretary of State, and the signatures have been certified—might be a very valuable addition. Speaking to the petitions that relate to constitutional amendments, if you look at section 1, subsection 6 on page 3, the question that immediately presents itself is that, by statute, you have until May to file the initiative and submit it to the Secretary of State for certification. You would build a different time frame because it is going to be on the general election. I heard testimony in the Senate on this bill, and there is a requirement for a 45-day window before an election for mailing absentee ballots to service personnel and other overseas voters. It probably takes about 30 days to prepare the sample ballots, so you would have to be about 75 days out from the election. Our point is that March may be way too early. What happens is the petitions are circulated and certified, but sometimes heavy bargaining starts before anything else is done with them.

Section 1, subsection 6, paragraph (b) discusses a different model—the statutory initiative. It would have been circulated and immediately filed with the Secretary of State during the November time frame before a legislative session, and you would see it during the first month of the next legislative session. This bill would allow that type of petition to be withdrawn before it would go to the November election. If the legislation presented by that statutory initiative was modified by the Legislature, and if the proponents of that initiative thought that was a good answer and did not want to take it to the ballot, under current law it would have to go forward to the ballot, no matter what, unless this language is adopted. In the case of the consumer advocate and some other initiatives we have had through the years, what happened under the current law is they had to try to explain to the voters that the initiative they had circulated had to be killed because the legislation was preferable. Paragraph (b) clearly presents a case that is very, very valuable.

Vice Chair Flores:

Thank you, Mr. McMullen. Are there any questions? [There were none.] I do not believe there is anyone else signed in to support S.B. 170 (R1), and we have heard from the neutral position, so will those in opposition to the bill please come forward.

Danny Thompson, Executive Secretary-Treasurer, Nevada AFL-CIO:

I am here in opposition to the bill. If you pass this bill, you are making a huge mistake. I think this bill was introduced with the best of intentions. I have worked on, defeated, and passed more initiative petitions than anyone in this room and probably anyone in this building. My first involvement was in 1998, when a petition was circulated against the people I represent. Ultimately, that initiative was defeated, but I have been involved in so many of these things that I have lost count.

There is a problem with having the ability to withdraw a petition. To my knowledge, the only state that allows this is Colorado. In Colorado there was an initiative on the right to work that ultimately was defeated, but the other side got several initiatives that the opposition did not care for. To agree to drop their initiatives, they were paid \$3 million. If you pass this, as well-intentioned as it is, you will be setting up a cottage industry. My experience dealing with the companies that do this kind of work is a very negative one. I have had very bad experiences dealing with people who are not completely aboveboard. That is inherent to this type of work, because these people go around the country doing this and they make a lot of money. If you pass this ability to withdraw a petition, what could happen, and I believe it will happen, is there will be those who qualify an initiative against one group or another group. Those people will go to one group or the other saying, "If you want this to go away, this is how you do that." I am not just saying this. It actually happened.

I understand why this bill was introduced, and I know it was well-intentioned, but the reality is if people are serious about circulating a petition, it is a pretty good undertaking and they should be committed to doing it. If you allow the ability to withdraw, you will set up a cottage industry of extortion. I do not think that is what you intend to do, and I do not think it was what the bill's sponsors intended, but it is the reality. In the state where it can be done, that is what happens now. It does not matter who is being extorted, that is what would happen, so we are opposing this bill. I expressed my opposition in the other house as well.

Vice Chair Flores:

Thank you. Are there any questions? [There was no response.]

Lynn Chapman, Vice President, Nevada Families:

We have also circulated many petitions and run into a lot of the same problems Mr. Thompson just mentioned. We know what it is like to circulate petitions, and I would like to reiterate what Mr. Thompson and his union said—this is not a good idea. We urge you not to pass this bill.

Vice Chair Flores:

Thank you very much. Are there any questions? [There were none.] If no one else is in opposition, I will close the hearing on S.B. 170 (R1). Is there any public comment at this time? [There was no response.] We are adjourned [at 4:21 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 12, 2011

Time of Meeting: 2:36 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 304	C	Senator Sheila Leslie	Remarks
S.B. 304	D	Mario DelaRosa	Chart of Demographics
S.B. 304	E	Cadence Matijevich	Proposed Amendment
S.B. 304	F	Assemblyman Skip Daly	Proposed Amendment
S.B. 391 (R1)	G	Shirle Eiting	Package of Documents in Opposition and a Proposed Amendment