

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

**Seventy-Sixth Session  
March 8, 2011**

The Committee on Legislative Operations and Elections was called to order by Chair Tick Segerblom at 1:38 p.m. on Tuesday, March 8, 2011, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/76th2011/committees/](http://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](mailto: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 Cresent 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:**

None

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Alan Glover, Clerk/Recorder, Carson City  
Ryan High, HAVA Administrator, Office of the Secretary of State  
Larry Lomax, Registrar of Voters, Clark County  
Terry Care, Member, Executive Committee, Uniform Law Commission,  
The National Conference of Commissioners on Uniform State Laws,  
Chicago, Illinois

**Chair Segerblom:**

[Roll was taken.] Today, we have two bills in our work session. Our Committee Policy Analyst will explain Assembly Joint Resolution 5 of the 75th Session to us ([Exhibit C](#)).

**Assembly Joint Resolution 5 of the 75th Session:** Proposes to amend the Nevada Constitution to revise provisions governing the convening and conduct of special sessions and the duration and adjournment of regular and special sessions. (BDR C-139)

**Patrick Guinan, Committee Policy Analyst:**

The Committee will remember that A.J.R. 5 of the 75th Session is a measure that proposes to amend the *Nevada Constitution* to provide that the Legislature can call itself into special session on extraordinary occasions by a petition that would be signed by two-thirds of the members of both houses. It delineates those occasions to include impeachment or removal proceedings against the Governor, Supreme Court Justices, or certain other state and judicial officers who have committed misconduct in office; expulsion procedures against legislators who have committed misconduct in office; unexpected conditions and financial emergencies; or reconsideration of vetoed measures after the adjournment of a legislative session.

Assembly Joint Resolution 5 of the 75th Session also stipulates that the Legislature may address only those issues named in the petition calling for the special session, and it limits most such sessions to 20 days. An exception to the 20-day limit is provided if a special session is called for the purpose of impeachment, removal, and expulsion procedures in order to allow for sufficient time for due process considerations.

Finally, the resolution clarifies that a special session convened by the Legislature must be adjourned prior to "midnight on the clock" of the 20th day, linked to the actual measure of time being used and observed by the general population of Nevada during that special session. The measure was approved by the 2009 Legislature. The final vote in the Assembly was 28 to 13 with 1 voter excused. The final vote in the Senate was 17 to 4 with no voters excused. The measure cannot be amended. If it is to be put before the voters at the 2012 election, it has to be passed by this Legislature in the exact form that it was passed by the 2009 Legislature.

**Assemblyman James Ohrenschall, Clark County Assembly District No. 12:**

I am here to speak in support of A.J.R. 5 of the 75th Session. This was sponsored last session by former Assemblyman Harry Mortenson, and I was privileged to be his chief cosponsor on this measure. It did pass last session and is here for its second time before this Legislature. If it passes, it will go before the voters at the next general election.

In 2006, a very similar measure was on the ballot before the voters. It was very narrowly defeated by the voters at that time: 52 percent to 48 percent. That was a margin of about 26,000 votes, which was one of the closest votes in our ballot-question history.

Thirty-two state legislatures now have the power to convene themselves into special session during extraordinary or emergency circumstances. The way this amendment is written, it would require two-thirds of the members of each house to sign on to such a measure, so I think it would need to be a bipartisan effort for the Legislature to convene itself into special session. During the 2008 interim when foreclosures were skyrocketing, especially in my district in Clark County, I hoped the Governor might call us into special session to address that problem. It did not happen, and we did not have the power to call ourselves into special session during the 2008 interim. I definitely support this measure and would take any questions.

**Chair Segerblom:**

Does anyone have any questions for Mr. Ohrenschall?

**Assemblyman Hardy:**

Has there been a need for this during past interims?

**Assemblyman Ohrenschall:**

That would depend on who you talk to. I, as a legislator who served during the years when the foreclosure crisis was probably at its peak, felt that it was needed. I felt it was something the Governor should have called us into special session to address. As it was, we had to wait until we came back into regular session in 2009. I am sure if you talk to other legislators; there were probably other situations they would have felt required a special session.

The good thing about this constitutional amendment is that it requires two-thirds of the members to bring it about. I do not think you will get two-thirds of the members of both houses to agree on a frivolous special session. Ideally, the three branches of government are supposed to be coequal, but here in Nevada, meeting once every two years for 120 days, we really are not coequal.

**Assemblyman Hickey:**

Assemblyman Ohrenschall, you mentioned that it would in all likelihood have to be bipartisan, but there certainly could be a scenario in the future where more than two-thirds of either party could constitute a majority that could easily call special sessions at its whim. Could that be a potential problem?

**Assemblyman Ohrenschall:**

That could be a problem if one party obtained supermajorities in both houses. However, I think the people who run for these offices are responsible enough not to let one party abuse the process.

**Assemblyman Stewart:**

This is more a comment than a question. When our Founding Fathers developed the *United States Constitution*, we had a separation of powers, and one of the separations was that the Executive Branch would have the power to call special sessions. When Nevada developed our *Constitution*, we followed that same example. I appreciate my colleague and his predecessor's hard work on this, and I appreciate that it needs a two-thirds vote—that is a good addition. I voted against this two years ago on the basis of separation of powers, and with that concept still in mind, I will continue to do so.

**Assemblywoman Smith:**

I want to comment about my support of this resolution and my support of it in the last session. I think it is very tightly constructed, which gives me comfort. We received a lot of email when we first heard the bill about this issue. I really

take that to heart, but I am not sure that everyone understood that it would be pretty hard to call the Legislature back into session with the two-thirds requirement. The reality is, in Nevada, there is not a history of having long, drawn out special sessions, as some states do, that meet for weeks or months on end. When we do have a special session, we get in and we get out, because it is very hard for the people of this state who are legislators to leave their homes and their jobs to serve in a special session. Having a citizen Legislature is a beautiful thing for that reason.

When Mr. Mortenson presented the bill, he used the example of the Illinois Governor and his outrageous actions. Their Legislature would have had no ability to do anything if they were in the situation we are in. It does not take the power away from the Governor because he still does retain ultimate power to call a special session.

I will continue to support it because I think it is so tightly constructed that I do not see possibilities of abuse. I think it makes sense and adds a layer of protection for our citizens.

**Assemblyman Conklin:**

I am also going to support this bill. I appreciate my colleague from Assembly District 22 and his views on the separation of powers that the *Constitution* provides—both the *U.S. Constitution* and the *Nevada Constitution*. I would argue that this bill actually strengthens that. As it currently stands, there is only one branch of government in power 18 months out of every 24. Some issues are big enough to warrant a look at the power of the purse and the power of the ability to write law. But that power is usurped from time to time because we are not around and there is absolutely no check on that. I agree with my colleague from Sparks. This is not something that would be used on a regular basis. It is there in the event of a dire situation in which the public's demand for a solution pushes this body to meet when the person at the helm, who is more of an ideologue, chooses to ignore it. I do not see any other way around it. Two-thirds is hard to get. It is hard to get when we are in session; it is going to be even harder to get when we are not in session. You have to assume that in order for this to actually take place; something would have to be pretty bad. I think this is the right thing for us to do and I think it would be the right thing for the public, so I am going to support it.

**Assemblyman Goicoechea:**

I have a question about the mechanics of it. Who calls the session we get the two-thirds vote in?

**Assemblyman Ohrenschall:**

According to A.J.R. 5 of the 75th Session, once two-thirds of the members of each house have signed the petition, it is transmitted to the Secretary of State. Then the Secretary of State shall notify all members of the Legislature and the Governor that a special session will be convened pursuant to the section of the *Constitution*, if amended.

**Assemblyman Goicoechea:**

So technically, after receiving the petition, the Secretary of State would call the session?

**Assemblyman Ohrenschall:**

Yes, that is correct.

**Chair Segerblom:**

Seeing no further questions, I will accept a motion.

ASSEMBLYMAN HORNE MOVED TO DO PASS ASSEMBLY JOINT RESOLUTION 5 OF THE 75th SESSION.

ASSEMBLYWOMAN FLORES SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN GOICOECHEA, GRADY, HARDY, HICKEY, McARTHUR, AND STEWART VOTED NO.)

The next bill on the agenda is Assembly Bill 100.

Assembly Bill 100: Enacts the Uniformed Military and Overseas Absentee Voters Act. (BDR 24-327)

**Patrick Guinan, Committee Policy Analyst:**

The next bill on the work session is A.B. 100. The Committee initially heard this bill on February 17.

Assembly Bill 100 proposes to enact the Uniformed Military and Overseas Voter Act, which authorizes members of the Armed Forces of the United States, their family members, and certain other Nevada voters who reside outside the country to register to vote, vote, and receive and return pertinent documents by approved electronic transmission, including email.

The Committee will remember that this bill was brought by the Chairman on behalf of the Uniform Law Commission. Testimony indicated that there were some amendments that would be proposed both by the Secretary of State and

by the clerks and registrars. Those amendments are friendly to the measure and are included for your review in the work session document ([Exhibit D](#)). I believe all those who testified during the first hearing are with us today.

**Chair Segerblom:**

Because this is a work session, we do not take testimony; however, we would like to hear from those who have submitted amendments. Gentlemen, have you spoken among yourselves to see if your amendments are compatible?

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

Yes, I believe we have.

**Chair Segerblom:**

Mr. High, would you like to explain the Secretary of State's amendment?

**Ryan High, HAVA Administrator, Office of the Secretary of State:**

The Secretary of State's Office is proposing two amendments that are cleanup amendments. The first amendment would define what "approved electronic transmission" means. This is already defined in *Nevada Revised Statutes* (NRS) 293.019 as "the sending of information by facsimile machine or by use of the Internet pursuant to the acceptable standards set forth by regulations of the Secretary of State." This would include either a line-ballot marking system or through email, which I know is favored by Mr. Lomax in Clark County. It would basically include sending these ballots by Internet or by email.

The second amendment would not require all three types of media to allow for access to see if a registration or a ballot was received, but allow for the ability of one of those three—whether it be telephone, electronic mail, or Internet—to enable a covered voter to determine whether his ballot was received or his application to vote was received.

**Chair Segerblom:**

Are there any questions of Mr. High? [There was no response.] We will move to the next amendments, proposed by Mr. Lomax.

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

Starting with section 11, I am proposing deleting the words that this section applies to all elections, including primary, general, and city elections, and changing the language so that it applies only in elections which contain a contest for a federal office. In Clark County, as things stand, the municipal election's primary is just two months before the general. It is impossible for us to comply with this law—getting ballots out 45 days ahead of time—when the two elections are only 45 days apart.

There is a bill that proposes combining municipal elections with the even-year elections. If that bill passes, this language I am suggesting would not need to be changed.

There is another small issue. Language in the *Nevada Constitution* concerning a recall election provides that the person calling the recall election call it within 30 days. That would be another example of an election when the proper notice—45 days—cannot be given to get ballots to people overseas. That would also be amended if we take the language I suggested.

**Assemblyman Goicoechea:**

Can you recall a federal official such as a U.S. Senator or Congressman?

**Chair Segerblom:**

The consensus is that we do not think so.

**Assemblyman Horne:**

I have a question on the previous proposed amendment.

**Chair Segerblom:**

On the Secretary of State's proposed amendments?

**Assemblyman Horne:**

Yes. What was the rationale for section 23 being changed to the covered voter may determine "by either . . ."? Do you want that changed to be either by telephone, electronic mail, or Internet?

**Ryan High:**

Yes.

**Assemblyman Horne:**

This is for military troops overseas. If they must do it by phone, you have defeated the purpose, because they do not always have access to a phone. The purpose of having it done all ways was to be able to have this access by any means. When you are in the military and you are stationed abroad in a conflict zone, you cannot always just pick up the phone. If you establish it that way, it may do them no good.

**Ryan High:**

Allowing for a choice for the sending and receiving of documents is to go with an Internet version and not require Internet and phone and fax. We do have a My Voter File on the Secretary of State's website, which will show if you have



successfully registered as well as whether or not your absent ballot was received. We do provide that already through our Internet service.

**Assemblyman Horne:**

But if you just change it to "either telephone or electronically," it does not establish that you are going to do it by Internet; it just says you have the choice of doing it.

**Ryan High:**

That is a very good point.

**Chair Segerblom:**

So, Mr. Horne, you are indicating that you would not make that change?

**Assemblyman Horne:**

My choice, Mr. Chairman, would be either not to make those changes or for it to be written that it is going to be done by Internet, which would truly be more accessible. There is less of a problem with access using the Internet. To have all three options available is better. If not, if they just want to be able to focus on doing it one way, I would rather it be by way of the Internet.

**Chair Segerblom:**

Mr. Care, are you authorized to approve that change?

**Terry Care, Member, Executive Committee, Uniform Law Commission,  
The National Conference of Commissioners on Uniform State Laws,  
Chicago, Illinois:**

Those of us on the drafting committee were told that even though we are seeking uniformity, voting practices and canvassing practices are going to vary through all 50 jurisdictions for various reasons. I think the telephonic language here probably is in response in a large measure to the fiscal impact of the bill. If we need to remove that, among other things, not only on the accessibility issue but to lessen the fiscal impact, we are agreeable to that.

**Chair Segerblom:**

All right; does anyone have any comments about that? [There was no response.] Mr. Horne, I think you have a good point. Back to you, Mr. Lomax.

**Larry Lomax:**

Moving to section 15, subsection 2, this is a fairly significant change and one with which we largely agree. This would allow an overseas voter to both register and request an absentee ballot simultaneously. The way the bill is written, it says up until the fifth day before the election, or later if the state

allowed registering for an election later than the fifth day. We are recommending that the deadline be changed to the seventh day with no exceptions. They could still register and request a mail ballot up through the seventh day. There are two reasons for this. One is that, for all the people living within the state, the last day to request an absentee ballot is the seventh day. Having a deadline for people overseas that is different than the deadline for the people within the state or county will definitely add confusion. I can assure you, people will get confused as we try to make it clear which deadline applies.

Also, we need time to convert from the sending-out mode to the receiving and processing-of-ballots-for-tally mode. I have never had a complaint that the seventh day was unfair. So that is our recommendation, and it will give us time to bring in our counting board and start processing ballots so that they can be counted. In no case would I find it reasonable to change the law to say that people could be registering or requesting mail ballots all the way up to and including the day of the election. I do not know how we would ever get a ballot to them, and we certainly do not have anyone available to do that.

Section 17 is essentially the same situation. The five-day time frame is readdressed here, and we request the same change from the fifth day to the seventh day be made in this section.

Section 19 is, again, a significant change, but all of this is up to you to decide. This would affect the cities in a big way if the cities continue to do things as they do now. The language in the bill reads that we will continue to accept overseas ballots up until the last day before we have to canvass. That would mean for a week after Election Day we would continue to receive and count overseas ballots; however, the law states that we will canvass the election eight days after the election. This is really up to you, but the obvious fact is that if this law as written stands, election night results will be less final than they currently are. Currently, the only changes to election night results that we release are in the federal races where provisional ballots might make changes in those contests. Other than that, what you get on election night, unless someone has made a mistake, is final. This would mean we are going to continue to count votes received from overseas voters for seven more days.

In Clark County, we always canvass on the last day, so this does not really cause me a problem; but I just want to be certain you understand the implications of it. For the cities, at least in Clark County, it does make a difference. They do not canvass on the last day; they canvass at the next city council meeting, whenever that happens to be. If you want to retain this

language in the bill, we would need to make some language changes to accommodate the cities.

**Chair Segerblom:**

I am not clear on the change you are requesting.

**Larry Lomax:**

I am proposing we receive absentee ballots up to the close of the polls on election night, which is the way it currently is, and that we do not extend it for an additional seven days. As far as I am concerned, and the Department of Justice would concur, as long as we get the ballots out more than 45 days before the election, this is not going to be an issue. We are meeting all the requirements of the Help America Vote Act of 2002 (HAVA).

**Chair Segerblom:**

Are there any comments about these proposed changes? [There was no response.]

**Larry Lomax:**

Moving along to section 20, I am proposing to add language here. This section is about a federal write-in absentee ballot. On a federal write-in absentee ballot, there are three categories the person sending in the ballot must check. He is either a military person overseas, a civilian residing overseas temporarily, or a civilian residing overseas indefinitely. I am proposing we make it clear, because I cannot find where this is established anywhere in the Nevada statutes. If a person is overseas temporarily, then we should send that person a full ballot because he or she is coming back to their home in Nevada, wherever it may be. We also have many voters who have left Nevada permanently with no intention of coming back; in fact, there are several I am aware of in Clark County who live in Mexico. Federal law requires that they be allowed to vote for federal offices, and I do not think these people would ever object to this. We have just been sending them federal ballots, because they are really only interested in their right to vote for president. If someone has left Nevada, he is not coming back, and that was their last residence, we have to let them vote at the federal level. We want to be consistent throughout the state about what kind of ballot we are sending them.

**Chair Segerblom:**

Are there any questions about that?

**Assemblyman Grady:**

Would you have to prepare a special ballot for them that lists just the offices they will be able to vote for? How does that work, and is there any additional expense?

**Larry Lomax:**

No, sir; it is no additional expense. Because of HAVA, we have to provide provisional ballots, which are at the federal level only. We have to prepare ballots that have only the federal offices on them anyway, so it is no additional expense.

Section 21 has to do with receiving ballots up to the day before the canvass after election night. If you decide you want to keep the deadline the way it is today—the ballot has to be received by 7 p.m. election night—then delete section 21 because it would not apply. If you want to extend the deadline for receiving ballots to seven days past the election, then you would keep section 21 in the bill.

Section 25 addresses communication via the Internet. It requires the clerk to provide the election notice—a notice stating when the next election is coming up and what contests are going to be on it—in writing to any overseas voter who requests it. All I am trying to do is reduce costs a little bit. In my 14 years of experience, I have never had anyone ask for this in writing, although we do make it available on the Internet. I recommend we delete subsections 1 through 3 and just keep subsection 4, which says, "A local elections official who establishes and maintains an Internet website shall make updated versions of his or her election notices regularly available on the website," which is exactly what we do in Clark County, and I think all the other clerks do, too. We put all this information on our website and, in this day and age, that is how overseas voters are getting their information.

Section 26 is really just administrative. On lines 28 through 30 of page 8 it talks about write-in ballots and says, "In any write-in ballot authorized by this chapter or in any vote for a write-in candidate on a regular ballot . . . ." As things stand now, you cannot write in a candidate on a regular ballot, so those words should be deleted. There may be a bill coming to propose that be changed, and if it passes, then my comments would not apply, but for the time being, that is an administrative change. In subsection 2 of the same section is another administrative change. Language in the bill says if the ballot is not notarized, we will not use that as a reason to throw the ballot out. Nevada does not require notarization to begin with, so this subsection is not needed.

Finally, in section 33 is another reference to receiving ballots after the election and is an administrative change. If we are not going to receive ballots after the close of the polls on election night, this would need to be changed. If we are going to continue to accept them, this would not need to be changed.

So, those are all my recommended amendments. I do concur with the Secretary of State's proposed changes and think this is a good bill. Hopefully, the changes I suggested will make it better.

**Chair Segerblom:**

All right, you have heard the proposed amendments. Does anyone have any thoughts about the bill?

**Assemblyman Hardy:**

For clarification, there are fiscal notes attached to this bill. Is there money in your budget for the biennium if this does pass?

**Ryan High:**

I believe there is some money in the HAVA fund that could cover these costs if required.

**Assemblywoman Kirkpatrick:**

I would like to clarify section 33 with Mr. Lomax. The rationale says to "see change to section 19" but I do not have any changes to section 19. Did I miss something?

**Larry Lomax:**

Section 19 concerns us continuing to accept ballots beyond election night.

**Assemblywoman Kirkpatrick:**

Thank you.

**Chair Segerblom:**

A while back, when all those military votes arrived in Florida after Election Day, would that not be permissible in Nevada, or is that a different issue?

**Larry Lomax:**

Currently, Nevada statutes state that we have to have physically received the ballots at 7 p.m. on election night when the polls close, so our laws are very cut-and-dried. Florida did not have the same law. That law varies by state.

**Chair Segerblom:**

So, if a military person's ballot is not received by 7 p.m. on election night, it is just too bad?

**Larry Lomax:**

Correct.

**Chair Segerblom:**

Are there any other comments? Does anyone have a motion?

ASSEMBLYMAN STEWART MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 100.

Mr. Horne had a proposed change. Does your motion include his change?

**Assemblyman Stewart:**

Yes.

**Chair Segerblom:**

And we are accepting Mr. Lomax's proposal concerning section 19.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Thank you very much, gentlemen. I think it is a great addition to the law.

**Assemblyman Conklin:**

Mr. Chairman, I just want to clarify the motion that the amendments made to sections 12 and 23 by the Secretary of State, plus the amendments made by the clerks as represented by Mr. Lomax, are included.

**Chair Segerblom:**

Mr. Stewart, was that your intention?

**Assemblyman Stewart:**

Yes, that was my intention.

**Assemblyman Conklin:**

Mr. Chairman, I do not anticipate changing my vote, but I would like to see the mock-up.

**Chair Segerblom:**

All right. I will close the hearing on the bills. We are adjourned [at 2:20 p.m.].

RESPECTFULLY SUBMITTED:

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Terry Horgan  
Committee Secretary

APPROVED BY:

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Assemblyman Tick Segerblom, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Legislative Operations and Elections

**Date:** March 8, 2011

**Time of Meeting:** 1:38 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 100	C	Patrick Guinan	Work session document