

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

**Seventy-sixth Session
February 15, 2011**

The Senate Committee on Legislative Operations and Elections was called to order by Chair David R. Parks at 3:40 p.m. on Tuesday, February 15, 2011, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Steven A. Horsford
Senator Barbara K. Cegavske
Senator James A. Settelmeyer

STAFF MEMBERS PRESENT:

Carol Stonefield, Policy Analyst
Eileen O'Grady, Counsel
Michael Geissinger, Committee Secretary

OTHERS PRESENT:

Ross Miller, Secretary of State, Office of the Secretary of State
Larry Lomax, Registrar of Voters, Elections, Clark County
Alan H. Glover, Clerk/Recorder, Carson City

CHAIR PARKS:

The meeting of Legislative Operations and Elections is called to order. We will begin with a presentation regarding elections from the Office of the Secretary of State.

ROSS MILLER (Secretary of State, Office of the Secretary of State):

I have prepared a PowerPoint presentation called the Elections Overview ([Exhibit C](#)).

The capitol Office of the Secretary of the State has 5 deputies and a staff of 130. Only eight are assigned to the Elections Division. We have three other main divisions—Commercial Recordings, Notaries and Securities—that manage many programs, including domestic partnerships and living wills. I serve as the Chief Elections Officer. It is important for our office to maintain the integrity of a transparent and accessible election system. We certify candidates, registrations, ballot initiatives and administer the statewide elections. We administer and enforce Nevada's election laws.

The initiative and referendum process is often called the fourth branch of government. Constitutionally, before any measures qualify, we are required to obtain signatures from 10 percent of the voters from the last general election. In 2009, the Legislature made substantive changes to the process requiring signatures be obtained in each of our three Congressional Districts. This year, with the addition of a fourth district, the Legislature will be required to change what constitutes a petition district. The outlook for 2012 will require 72,352 signatures statewide. I refer to [Exhibit C](#) for relative dates on the initial petition process.

My office is responsible for the administration of the Help America Vote Act (HAVA) of 2002. The HAVA Act was instituted to standardize the voting process across the United States. It has provided Nevada with \$23 million, to date, of federal funding to carry out the provisions. In 2009, we received an additional payment of \$800,000 and in 2010, an additional \$695,000. The State has approximately \$6.5 million left in funding. We are waiting to hear whether Congress will appropriate new funding. The general consensus is we will not receive more funding, which will create a challenge of maintaining our election equipment and the associated requirements. As a result of the HAVA Act, we are required to maintain a statewide voter registration list which is used for campaigning.

The election of 2008 was closely watched in Nevada. Outside resources and national attention focused on Nevada because we had an early caucus, and we were considered a battleground State. We had a record turnout for the election while the national media was scrutinizing our election process. Nevada responded to the scrutiny very well. The work ethic of our staff and the dedication of our many volunteers produced an efficient election. In 2010, the U.S. Senate Majority Leader, Harry Reid, was on the ballot, which again focused national attention on Nevada. I am proud to say we ran another efficient

election. We complied with the Military and Overseas Voter Empowerment (MOVE) Act, which was federal legislation put in place to make it easier for our military men and women overseas to vote. In 2009, the Nevada Legislature passed legislation, prior to the federal legislation, which made compliance easier.

We are beginning preparations for the 2012 election. Nevada will again play an important roll. We anticipate being an early caucus state for both the Democratic and Republican Parties. This is a very sought-after position; however, it brings the additional strain of having more campaign organizations in State and more election protection attorneys scrutinizing what is expected to be a hotly contested election. Early voting has been a tremendous success in Nevada with 58 percent in 2008 and 53 percent in 2010. By offering the convenience of early voting in unique locations, Nevada has been more successful than any other state. The practice of early voting takes a tremendous strain off of Election Day and has brought national media attention to Nevada. Beginning in 2008, we made significant enhancements to the Election Night Reporting Websites. In 2010, we had real-time updates, and the site broke traffic records for the State of Nevada with 34.6 million hits between 7:30 p.m. and midnight.

This year, we have launched another pilot program to allow online voter registration. It is available to any unregistered resident of Clark County. We are one of only nine states in the Country to offer an entire online option to register. The system requires a new registrant to have a Nevada issued driver's license or other form of State identification. This process is more secure than many of the paper-based forms used in prior years. By using the database from other state agencies, we can verify residency and clean up any errors that might exist. We closely monitored the online voter registration with regard to party lines. Any time something new, like this program, is implemented in the election process, there are understandable suspicions as to whether one party or the other may benefit. That is not the experience of the nine states with online voter registration.

We had some contentious campaigns and elections in the last few years. Every cycle brings about its share of complaints regarding election law violations. For that reason, my office implemented the Election Integrity Task Force. My office takes all election law violations seriously and pursues them aggressively. The Task Force is comprised of people from my office, the

State Attorney General's Office, local law enforcement, members of the Federal Bureau of Investigation (FBI) and the U.S. Attorney General's Office. The Nevada Task Force is now held up as a national model by the FBI and the U.S. Department of Justice showing how to respond to election law complaints. We want the public to have confidence that our elections have integrity.

In dealing with transparency in government, the State of Nevada does not fare well. Although we mandate certain requirements and certain disclosures to be presented, that information is not put forth in a way that is accessible to the public. We allow for handwritten Financial Disclosure Statements and Campaign Contribution and Expense Reports, which can be difficult to comprehend in the seven days before an election. We also have the burden of scanning the reports to get them online. The public is then responsible for sifting through all the reports to make associations as to who is contributing to a campaign. The single most important reform we could enact is to mandate electronically filed reports. In this format, the media and the public would search by donor or address and categorize information. These reports need to be filed before early voting begins. In 2012, we could see 60 percent of the people cast ballots prior to Election Day. Our proposal is that those reports be filed electronically four days before early voting begins and on the Friday before the election. This will give the public the knowledge of who is contributing to these campaigns to see if that may affect their votes.

SENATOR CEGAVSKE:

Why is the mail turnout column showing zero on page 3 of [Exhibit C](#)?

MR. MILLER:

I would defer that question to Mr. Lomax.

SENATOR CEGAVSKE:

On page 7 of [Exhibit C](#), the task force is outlined. Did the task force handle the Association of Community Organizations for Reform Now (ACORN) situation in Las Vegas? Do you feel some people were not prosecuted?

MR. MILLER:

In 2006 and prior elections, Mr. Lomax and others had indicated seeing a high volume of fraudulent voter registration forms. My office promised to crack down on the fraud. We warned if we saw those types of abuses, we would pursue it aggressively. We formed the Task Force and soon received complaints.

We executed a raid on ACORN's headquarters and filed 39 felony counts on the local field director, the regional field director and ACORN. The result was convictions and the dissolution of ACORN. The Task Force has investigated many subsequent complaints which have not resulted in any violations.

SENATOR CEGAVSKE:

Was there national corroboration with other states with regard to other ACORN offices?

MR. MILLER:

No. We reached out to the FBI and the U.S. Attorney's Office stating there were clearly two sets of election law violations. There were both federal and State violations, so we felt coordination with these agencies was paramount.

SENATOR CEGAVSKE:

In the past, we have tried to combine elections in the odd and even years. Would it make a difference to your office if elections were in the same year? In Clark County, we save over \$1 million if we combine races in the same year.

MR. MILLER:

It will not have much impact. The case can be made that off-year elections allow us to go through trial runs and experiment with additional provisions prior to the pressure of a presidential or federal election. If you consolidate races into one election, it creates longer ballots. The Legislature should make a policy determination after an in-depth look at the matter.

CHAIR PARKS:

Is the State fully automated with electronic voting machines? Are the State voting machines all made by Sequoia?

MR. MILLER:

Yes; however, the name has been changed to Dominion Voting Systems, Inc. We are the only state in the Country that uses 100 percent of the same machines in every jurisdiction. We have 6,900 touch-screen voting machines statewide. All the machines are outfitted with a Voter-Verifiable Paper Trail. We can conduct a postelection audit to match the paper tally with the electronic tally. We have done this every year since 2002 and have not found any discrepancies. The absentee ballot turnout in 2010 was 57,826 mailed-in ballots, and we have 31 optical scan machines to read those ballots.

CHAIR PARKS:

Are provisional ballots hand-filled out?

MR. MILLER:

That varies by county. It would be a good question for Mr. Lomax.

CHAIR PARKS:

You indicated your desire to have reports filed electronically for all candidates. Will that language be in your proposed legislation to be heard by the Assembly?

MR. MILLER:

It will mandate all contribution expense reports, political action committee reports and financial disclosure reports be filed electronically. It will make my office the single-point filing office for all reports. The bill also proposes that financial disclosures move to our office with many of the county filings.

CHAIR PARKS:

Are you looking at the possibility of reconciling the financial reports?

MR. MILLER:

No provision in the law mandates the reporting of the ending fund balance. With diligence, an individual could add up all the expenses and contributions from prior reports to find a sum. I am open to adding that provision to create an additional layer of transparency. If we are able to mandate that these reports be filed electronically, the format would allow us to build in a calculator to find that sum.

CHAIR PARKS:

The latest iteration of those reports did not require listing contributions under \$100. Once the option exists to omit those funds, it becomes impossible to reconcile the reports.

MR. MILLER:

I would be open to mandating that all contributions and expenses under \$100 be reported. Some argue it is too burdensome for such small amounts. However, getting to the ending fund balance is probably the level of transparency that the public is looking for.

CHAIR PARKS:

If you aggregated all small sums and created an entry for them, then you could make it reconcile.

MR. MILLER:

A specific provision in statute prohibits that.

CHAIR PARKS:

We have a presentation regarding elections from county election officials.

LARRY LOMAX (Registrar of Voters, Elections, Clark County):

Elections are alive and well in Clark County. We continue to set the standard for the rest of the Country by incorporating technology into the election process. The 2008 and 2010 elections brought national media attention and several out-of-state lawyers to observe our election process. We had many tourists in Clark County who saw our early voting machines in malls and other unique locations. Comments from these outside sources included, "Why don't we do it that way in our state?"

Early voting continues to be the most popular way to vote in Clark County. If the absentee ballots are included, two-thirds of the registered voters in Clark County vote early. In the last two elections, between 250,000 and 400,000 people voted early and, therefore, were not in line on Election Day. Without early voting in Clark County, we would require another \$15 million to \$20 million for voting machines and we would have to find another 100 polling places.

In regard to the voting machines, we have found them to work perfectly. They respond to a touch, and when they are touched, they clearly indicate where they were touched. We have had some issues in past elections with inadvertent touches. The machines are sensitive and will register any touch. Claims that a candidate appeared on the ballot before a touch have not been substantiated. The suspicious element to such claims are that the people have all gone home and called the media claiming this had happened. Not one of these people ever brought it to the attention of workers at the polling place. We had Democratic and Republican poll watchers at each polling place for early voting and on Election Day. No one reported seeing it happen or any individual raising that issue. Maintenance of the Clark County machines is handled by six of the most qualified people in the Country. We continue to work with most of

the same vendors within the election community even though the Sequoia Company was purchased by Dominion.

After each election cycle, we look for various ways to improve things for both the candidates and the voters. For the last two years we have focused primarily on our Website. I agree with the Secretary of State; the online voter registration in Clark County has created a secure and accurate form of data entry. We struggled in past years with reading the hand-written forms. When the registrar types in data that exactly matches the Department of Motor Vehicles and U.S. Social Security Administration records, it goes immediately into our system. With their signature, the voter is registered. This has helped with staff reductions we are experiencing. We will add change of address and party affiliation changes in the future. The public now finds online information such as polling places, registration data, a printable sample ballot and elected officials. Candidates can download voter files by district, look at voter history, print walking lists and soon see precinct maps.

In the last Session, two bills had a primary impact on Clark County. The first was S.B. No. 162 of the 75th Session which moved the primary election up to the second Tuesday in June. This allowed us to get ballots sent to overseas military men and women 45 days prior to the election. The MOVE Act, passed in 2009, requires ballots be in the mail at least 45 days prior to the election. Another benefit was the added preparation time to get ready for the election. It allowed us the cost savings of preparing ballots without incurring overtime hours. The last benefit was that Election Day became the second Tuesday in June. The schools were in session on the first Tuesday, but out for the year on Election Day. This allowed us to conduct the election using schools as polling places when the kids are not on campus and the summer vacation season is not in full swing. The one challenge the bill created for us was training poll workers for the extended time frame. We created an online training program that each worker could access over the Internet. They were required to take exams for each segment. We monitored site usage of over 2,000 workers, and the exams were passed. This was a cost savings versus bringing them in for training.

The second bill was A.B. No. 41 of the 75th Session, which allowed our overseas military and their families to vote electronically. Individuals filled out an overseas registration card which allowed us to send them an e-mail with an attachment of the ballot and any other pertinent information. We received many ballots back within 24 hours.

When redistricting was done in 2001, various agencies all drew their lines independently. As a result, we had to revamp all the precinct lines for the 2003 elections. Precincts cost money. Every different precinct requires us to print that version of a mail ballot, that version of a sample ballot, etc. I do not know a solution to this, but point out that precincts are largely driven by the redistricting lines. The law says blocks of voters must be no larger than 1,500 registered voters. We will introduce legislation to increase that to 3,000 registered voters as a cost-saving measure.

Lastly, I ask that any new legislation in this Session allow for flexibility to account for the different size of our State counties. With Clark County approaching 1 million registered voters and other counties having only 1,000 voters, the solutions do not always work for both of us. I emphasize that the clerks in Clark County are fully committed to the integrity of our election process.

SENATOR CEGAVSKE:

I wonder if the county registrars will be meeting again soon. I appreciated attending that meeting in past years and hearing the different issues for each county.

MR. LOMAX:

I forgot to answer the question on provisional ballots. In Clark County, we have tried using the voting machines and paper ballots. Despite our training efforts, we have had an unacceptable amount of mistakes when using the machines. When we use paper ballots, we end up with ballots getting misplaced. We will attempt to find a better method.

CHAIR PARKS:

How many provisional ballots are in a general election?

MR. LOMAX:

In the two presidential elections, we had between 5,000 and 6,000 ballots. Approximately 1,500 of those were counted. These voters were people who were registered but did not want to go to their polling places. You are allowed to vote in that case at the federal level only.

CHAIR PARKS:

Is there an ideal size for a precinct?

MR. LOMAX:

The law says 1,500 registered voters. I cannot think of any incidences where the territorial size of the precinct has made a difference.

CHAIR PARKS:

What is the most easily managed number of voters for a precinct?

MR. LOMAX:

We have found 3,000 to 4,000 voters as a comfortable number in Clark County. We shape the precincts to assign a reasonable amount to the polling place based on accessibility and parking.

SENATOR SETTELMAYER:

Do you ever divide a precinct?

MR. LOMAX:

Everyone in a precinct is represented by the same elected officials.

SENATOR SETTELMAYER:

Is that law?

MR. LOMAX:

Several precincts can have the same ballot style. We can divide them. Population growth makes it necessary to divide them, but they still have the same representatives. We have to keep the limit of 1,500 registered voters in the precincts.

SENATOR SETTELMAYER:

Does a federal law say everyone must have the same voter representation in the precinct? Is that a State of Nevada law?

MR. LOMAX:

This is based on the *Nevada Revised Statutes*. The precincts are set by territory so everyone gets the correct version of the ballot. In a general election in Clark County, there are approximately 305 different ballot versions.

CHAIR PARKS:

I heard of a complaint from a constituent who voiced concern when voting at a mall on the ground floor. He was worried that someone from the balcony could see his vote. Was that ever an issue or concern?

MR. LOMAX:

I have heard that complaint. We rely on security to remove anyone trying to watch from above. We also rely on individuals who are voting to position themselves in a manner which protects their privacy.

CHAIR PARKS:

Is Dominion a domestic U.S. company?

MR. LOMAX:

Yes.

ALAN H. GLOVER (Clerk/Recorder, Carson City):

The 2010 election was successful for us. The change in the date of the primary helped us plan for the election. We did have an issue with printing ballots. In certain cases, the name of the candidates and the full name of the party were too long for one line. With the extra time to prepare, we were able to work out the issue with the printer. We were happy with the electronic voting from our overseas military. We had a 55 percent return on our electronic ballots. We expected a higher return based on reminders e-mailed to individuals. We would like to progress to the online voter registration process in northern Nevada. Campaign reporting forms filed online would also improve our area. I agree with the earlier comments regarding the ending fund balance. Some candidates are not sure where to write in contributions less than \$100. Most local candidates get their contributions in small sums and do not know how to report them.

Provisional voting in Carson City is done on the voting machines. We have experienced the same issues of wrong codes being programmed. On our smaller scale, we have moved provisional ballots to our election staff for better control. Unregistered individuals were the bulk of our provisional ballots.

Redistricting in the northern area for precinct distribution will have the same problems as Clark County. When we divided precincts ten years ago, some individuals did not fit into any district. It required us to move some things

around to ensure those votes were counted. We agree that communication with all the agencies will help. Fewer precincts will help cut costs.

CHAIR PARKS:

Many people were unaccustomed to the second Tuesday in June. Have you heard of any strong opposition to move the date?

MR. LOMAX:

I have not heard a single complaint from the public. I have heard from some elected officials that they did not like campaigning for so long. There is a bill proposal to move the date back to September.

CHAIR PARKS:

What happens to voter registration when an individual moves out of state or from county to county within the State?

MR. LOMAX:

Assuming the individual fills out a new voter registration form in the new county, we have a statewide data system that searches for duplicates. If two counties show up, it takes the latest registration and notifies the other county for removal.

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CHAIR PARKS:

The meeting is adjourned at 4:58 p.m.

RESPECTFULLY SUBMITTED:

Michael Geissinger,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: February 15, 2011

Time of Meeting: 3:40 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Secretary of State Ross Miller	Elections Overview