

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

**Seventy-Seventh Session
June 3, 2013**

The Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 4:14 p.m. on Monday, June 3, 2013, in Room 3142 of the Legislative Building, 401 S. Carson St., Carson City, NV. 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 nelis.leg.state.nv.us/77th2013. 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 James Ohrenschall, Chair
Assemblywoman Lucy Flores, Vice Chair
Assemblyman Elliot T. Anderson
Assemblyman Pat Hickey
Assemblyman Andrew Martin
Assemblyman Harvey J. Munford
Assemblyman James Oscarson
Assemblyman Tyrone Thompson

COMMITTEE MEMBERS ABSENT:

Assemblyman Wesley Duncan (excused)
Assemblywoman Marilyn K. Kirkpatrick (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Kevin Powers, Committee Counsel
Karen Pugh, Committee Secretary

Minutes ID: 1393



OTHERS PRESENT:

Scott F. Gilles, Esq., Deputy for Elections, Office of the Secretary of State

Janine Hansen, representing Nevada Families for Freedom

Chair Ohrenschall:

[Roll was taken.] Today we have work session on Senate Bill 239.

Senate Bill 239: Revises provisions relating to elections. (BDR 24-996)

Susan Scholley, Committee Policy Analyst:

Senate Bill 239 revises provisions relating to elections and was sponsored by Senators Settlemeyer, Cegavske, Gustavson, Hutchison, and Assembly Members Flores, Hansen, et al. [Read from work session document ([Exhibit C](#)).]

No amendments were proposed at the hearing; however, the Office of the Secretary of State submitted a conceptual amendment, the intent of which is to eliminate the fiscal note for the Secretary of State's Office and to save money in printing costs for sample ballots by local governments ([Exhibit D](#)). You will recall this Committee passed out Assembly Bill 440 (2nd Reprint), that has provisions in it that allows county and city clerks to distribute sample ballots by electronic mail if the voter grants permission to do so. [Read from conceptual amendment ([Exhibit D](#)).]

Those would be the only provisions, but there would be a number of sections amended because of cross-references and changes. It would be virtually identical to A.B. 440, those sections only that relate to sample ballots being received electronically.

Chair Ohrenschall:

Are there any questions?

Assemblyman Thompson:

On the conceptual amendment, does obtaining the information from the Social Security Administration optionally as opposed to mandatorily remove the teeth from this bill?

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

Yes, the technical reading of the bill would now provide the Secretary of State's Office with the option to obtain this data and give notice to the counties. I cannot speak for any future Secretary of State but, in general, this is the kind of data that we want to get our hands on because of the obvious value of the

death record data from outside of Nevada, which we do not currently have access to. The change was made purely for fiscal reasons. With our budget set as it is, we could not agree to absorb the \$8,000 per year fiscal note.

I will also reiterate what I mentioned to this Committee at the hearing for Senate Bill 239, as part of Nevada's membership in the Electronic Registration Information Center (ERIC), which is a multistate data-sharing program. We will be getting the Social Security Administration data at least once every two years. Access to that data is included in the membership fees we pay to be part of the ERIC program.

Chair Ohrenschall:

Are there any further questions for Mr. Gilles?

Assemblyman Hickey:

It appears to me that if this amendment makes accessing the data through the Social Security Administration optional, that would increase the difficulty for the Secretary of State's Office to meet the requirement of informing the county clerks of the names of voters who are deceased. What assurance can you give, if any, that you will be able to meet the provisions in the bill?

Scott Gilles:

The reality is that there is no assurance that we will obtain that data with the legislation granting us the option to obtain it. Formally, we would have to examine our budget and, if necessary, approach the Interim Finance Committee if we needed the allocation for the money. Those types of steps could happen in the future. Again, through our involvement with the ERIC program, we are mandated every two years to receive that data from the Social Security Administration.

Assemblyman Hickey:

So you do automatically, under the current system, receive that data every two years and then share that information with the various county clerks? I want to be clear on this because the bill does stipulate that the county clerks are to remove the names of deceased voters from the rolls.

Scott Gilles:

We currently receive from the Office of Vital Statistics, a list of individuals who have passed away within the state. That information is shared with the clerks so that they can cancel the voter registration. The ERIC program is so new we have not yet received any data on individuals who have passed away from the national Social Security Administration.

Chair Ohrenschall:

Are there any further questions for Mr. Gilles?

Assemblyman Thompson:

Is there a role that the local election departments play in helping the Secretary of State's Office with this information?

Scott Gilles:

Yes. It depends on the county clerk as to what process they follow. As Mr. Glover testified, his office in Carson City peruses the obituaries in the daily paper each morning and, using that information, then pulls those names from the voter rolls. The process I was speaking to was the automatically generated reports that we send out to all the counties when we receive the vital statistics list from the state.

Assemblyman Oscarson:

Item number 2 on the conceptual amendment would require county clerks to distribute sample ballots via electronic mail, if the voter requests that it be done. Have you spoken to any of the rural county clerks or the people from the Nevada Association of Counties (NACO) to hear what they think about this? I ask because I know there would most likely be a cost for each county to implement that process due to lack of technology.

Scott Gilles:

I do not have a formal response from NACO on this amendment. I have talked to Daniel Burke from Washoe County and Larry Lomax from Clark County and a handful of the rural clerks over the years about this issue. The way the language is written it is completely permissive if the county clerk wants to establish a system where the voter can opt in to receiving sample ballots via electronic mail, they may do so. Both Washoe County and Clark County are interested in delivering sample ballots electronically because of the tremendous savings in printing costs that will benefit the county. As an example, during the last election Clark County spent \$700,000 to print and mail sample ballots to all registered voters in the county.

Chair Ohrenschall:

I believe Mr. Powers has something to add in regard to this question.

Assemblyman Oscarson:

The only thing I want to make sure of is that this is an option that county clerks may provide, not a requirement.

Kevin Powers:

Mr. Oscarson makes a good point. I must disagree with Mr. Gilles because, based on the language in Assembly Bill 440, this would not be optional on the part of the county clerks. Section 6.5, subsection 4 of A.B. 440 states, "A registered voter may elect to receive a sample ballot by electronic mail. If a registered voter elects to receive a sample ballot by electronic mail, the county clerk shall distribute the sample ballot to the registered voter by electronic mail pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State. If a registered voter does not elect to receive a sample ballot by electronic mail, the county clerk shall distribute the sample ballot to the registered voter by mail." This puts the ability on the voter to request the sample ballot and the duty then falls on the county clerk to do so. We must adjust this language to make the program optional for a county clerk to develop the program at their choosing and then allow a voter to submit a request to receive the electronic version of the sample ballot if such a program is available in their county.

Chair Ohrenschall:

Thank you for clarifying that.

Scott Gilles:

The intention was not to simply pull over the text directly from A.B. 440, and I was not aware that A.B. 440 put this type of mandatory responsibility on the clerks. The intent was to make this optional for the counties if they want to provide it to the voters.

Chair Ohrenschall:

Are there any other questions?

Assemblyman Elliot Anderson:

I wanted to offer to make a motion to amend and do pass Senate Bill 239 with the conceptual amendments as proposed by the Secretary of State's Office and the technical correction to the language to clearly state that the ability to deliver sample ballots via electronic mail is a program to be instituted at the option of each county. I believe that many counties will want to take advantage of this because it will be a cost-saving measure.

Chair Ohrenschall:

Are there any other questions?

Assemblyman Oscarson:

I understand and appreciate what the Secretary of State's Office is trying to do, especially for the bigger counties. However, I am afraid that small counties,

such as Esmeralda and Nye, do not have the capability to do that. If the language is changed to reflect a "may" and not a "shall," then I can support the measure.

Chair Ohrenschall:

Mr. Oscarson I believe that is what Mr. Anderson intended with his motion to make the technical correction to the language to reflect a "may" and not a "shall."

Scott Gilles:

I appreciate your comments, Assemblyman Oscarson. There is one point I want to make clear. It is our intent, and has been all along, that this be an optional tool for the counties. Our only intent was to allow a sample ballot to be delivered in an electronic format which would simplify the process for all counties, particular with delivery of voting materials to uniformed military personnel serving overseas. This would allow counties to establish an Internet portal where, if someone could go to access the sample ballot, they could do so. If the county wanted to have a system where active registered voter X called in and said that he would like his sample ballot emailed to him, that could be done. It was our intent to keep this as broad as possible to allow the counties the option to decide which methods worked for them with as little cost as possible.

Chair Ohrenschall:

I believe that was the language that Assemblyman Anderson was proposing—to make it optional for any county registrar or clerk.

Assemblyman Elliot Anderson:

Reading from the Secretary of State's conceptual amendment, I accept point No. 1 from his amendment and then clarify point No. 2 to make those provisions from A.B. 440 optional for a county to implement. That is my motion.

Chair Ohrenschall:

Are there any other questions or comments? [There were none.]

ASSEMBLYMAN ELLIOT ANDERSON MOVED TO AMEND AND DO
PASS SENATE BILL 239.

ASSEMBLYMAN THOMPSON SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DUNCAN AND KIRKPATRICK WERE ABSENT FOR THE VOTE.)

I will assign the floor statement for this measure to myself. That concludes the work session. I will now open the meeting to public comment.

Janine Hansen, representing Nevada Families for Freedom:

Mr. Chairman, members of the Committee, we have enjoyed very much working with you this session. We appreciate that you have all been so accommodating, even when we do not agree. In America it is important to have different points of view and to express those views and to be able to do it with respect. We have enjoyed seeing you all, but we are real glad that we will not be seeing you again real soon.

Chair Ohrenschall:

Please have a safe drive back to Elko. We have appreciated the elucidation you have given to us. Seeing no further public comment, I will recess this meeting to the call of the Chair [at 4:34 p.m.].

[This meeting was reconvened at 11:55 p.m., on Monday, June 3, 2013, and adjourned behind the bar of the Assembly at 11:56 p.m.]

RESPECTFULLY SUBMITTED:

Karen Pugh
Committee Secretary

APPROVED BY:

Assemblyman James Ohrenschall, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: June 3, 2013

Time of Meeting: 4:14 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 239	C	Susan Scholley, Committee Policy Analyst	Work session document
S.B. 239	D	Scott F. Gilles, Esq., Deputy for Elections, Office of the Secretary of State	Proposed conceptual amendment to S.B. 239