

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

**Seventy-Seventh Session
February 21, 2013**

The Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 4:04 p.m. on Thursday, February 21, 2013, 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 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 Wesley Duncan
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Andrew Martin
Assemblyman Harvey J. Munford
Assemblyman James Oscarson

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Nicole Lambole, Chief Deputy, Office of the Secretary of State
K. Kevin Benson, Deputy Attorney General, Office of the Attorney General
Harvard (Larry) Lomax, Registrar of Voters, Clark County
Mary-Anne Miller, Office of the District Attorney, Clark County
John Wagner, representing Independent American Party
Lynn Chapman, representing Nevada Families Association
Elisa Cafferata, President and CEO, Nevada Advocates for Planned Parenthood Affiliates

Chair Ohrenschall:

[Roll was called.] I will open the hearing on Assembly Bill 48, which originally began on Thursday, February 19. It was noted at that meeting that several individuals wanted to testify in regard to the proposed bill, but due to the unexpected recess and lateness of reconvening, those individuals were not able to speak.

Ms. Lambole from the Office of the Secretary of State and Mr. Benson from the Office of the Attorney General are in attendance, and I will ask them to give a brief recap of the proposed bill as it was presented by Mr. Scott Gilles of the Office of the Secretary of State.

Assembly Bill 48: Makes various changes relating to elections. (BDR 24-383)

Nicole Lambole, Chief Deputy, Office of the Secretary of State:

Assembly Bill 48 is our technical corrections bill that addresses actions which have occurred in the administration of elections, including special elections, and issues encountered related to a vacancy occurring in an office and the process of nomination or candidate filing for that vacancy. On that issue, there is a friendly amendment proposed by Clark County that establishes a filing period for a vacancy in a nonpartisan nomination ([Exhibit C](#)).

Section 12 proposes to extend online voter registration to coincide with the ten-day in-person registration and seeks to clarify that those persons registering

to vote by computer are not required to present their identification the first time they vote, as it has been verified through the online registration process, which match in first name, last name, driver's license or identification number, date of birth, and social security number. As I understand it, there is also a friendly amendment that provides additional clarification on this process proposed by the Clerk/Registrar of Carson City ([Exhibit D](#)).

Assembly Bill 48 includes sections that pertain to the candidate filing fees and repayment or forgiveness of loans as well as how we handle the disposal of unspent campaign contributions in the definition of campaign expenses.

In several sections we seek to clarify the language by removing existing references to specific statutes and adding a reference to the existing chapter. In this manner we are not removing the provisions from the state law; we are only making sure that they are identifying the appropriate references in statute, which reduces unnecessary verbiage.

We defined some terms related to city elections, in regard to the election cycle, that have caused some confusion. The bill also proposes to remove some language regarding the submission of campaign finance reports on a form versus the online filing system which is now mandated.

Chair Ohrenschall:

In regard to section 9 of the bill, there was an amendment proposed by Carson City Clerk/Recorder Alan Glover about individuals who register online ([Exhibit D](#)) but then mailings sent to them by the Clerk/Recorder's office are returned as undeliverable. Is that amendment also considered a friendly amendment by the Secretary of State's Office?

Nicole Lamboley:

Yes. That amendment is specific to those instances when an individual fails to respond, which means that there may have been some missing information, or misinformation, and the record did not match up.

Chair Ohrenschall:

Under the proposed amendment, would such individuals only be able to vote a provisional ballot, or would they be able to vote a full ballot if they had identification?

K. Kevin Benson, Deputy Attorney General, Office of the Attorney General:

I believe the amendment ([Exhibit D](#)) by Mr. Glover would allow the voters to cast a provisional ballot if they have not provided adequate proof

of residency. If they do provide adequate proof of residency within the time permitted by law, then they would be permitted to cast a regular ballot.

Chair Ohrenschall:

There was a pledge by Mr. Gilles on behalf of the Secretary of State's Office to work with some of the parties concerned about language regarding nonprofits. Have you had time to reach out to any of those parties?

Nicole Lamboley:

That was related to clarifying what specific nonprofits are required to report under *Nevada Revised Statutes* (NRS) Chapter 294A. I believe we are still working with the parties to produce an amendment acceptable to all concerned.

Chair Ohrenschall:

There were also concerns expressed by the members of the Committee and others regarding the enhanced penalty in section 1 of the bill.

Nicole Lamboley:

Related to the category B felony, as I understand it, there are several forms of a category B felony, including big, middle, and baby B categories. I believe the Secretary of State understands some of the concerns and would be agreeable to a baby B felony with a minimum penalty of one year and a maximum of six years.

Assemblywoman Flores:

I want to make a comment for the record as far as the categories are concerned. I believe what we expressed at the last hearing was our desire for parity with the work completed last session. If we are going to start talking about these felony provisions, we need to stay on course and look to reduce the penalty to a category D. This is a conversation we will need to have regarding this specific provision.

Assemblyman Elliot Anderson:

I have that same concern as well, so I hope we will be able to work together to address that issue.

Nicole Lamboley:

I believe that we indicated there would be some discussion on some amendments provided, related to the concerns and issues that have been discussed, and we will be working to produce those. If you have a work session, there will be amendments for discussion and consideration.

Assemblyman Duncan:

Ms. Lamboley, in section 30 we have the "for or against" language that is intended to replace the term "on behalf of." I would like to know why the Secretary of State is requesting the language change.

Nicole Lamboley:

There has been some confusion as to what "on behalf of" means, and rather than leave it open to interpretation, we moved for the clarity of the language advocating "for or against." This same language appears in Assembly Bill 35 from the Attorney General's Office.

Kevin Benson:

As Ms. Lamboley mentioned, it is essentially the same language as that in the Attorney General's bill, which addresses the same issue of confusion regarding that term "on behalf of" to make it more straightforward and clear that it means both for and against.

Assemblyman Duncan:

It appears to me that the change in language almost broadens what that means. For instance, say an advocacy group is a 501(c)(4). How are they able to determine if they are doing something for or against a candidate, in their capacity as a candidate versus that of an elected official?

Kevin Benson:

The reporting requirements in NRS 294A.140 and NRS 294A.210 relate to independent expenditures. The term "expenditure" is defined in NRS 294A.0075 as "1. Those expenditures made for advertising on television, radio, billboards, posters, and in newspapers; and 2. All other expenditures made, to advocate expressly the election or defeat of a clearly identified candidate or group of candidates or the passage or defeat of a clearly identified question or group of questions on the ballot." So the "for or against" language is not intended to expand the definition of expenditure. The argument that we have received in the past from groups is that they have clearly made an expenditure, and it is express advocacy, but it is against a candidate, not on behalf of, and therefore they are not required to report anything.

As I mentioned during my testimony on the Attorney General's bill, A.B. 35, we do not believe it was the intention of this Legislature, when that language was created in 1997, to essentially exempt attack ads from all of the reporting requirements. I believe that the "on behalf of" language was meant to convey the term of "relative to" a candidate as opposed to something truly about a legislative issue.

Assemblyman Duncan:

To confirm the legislative intent for the record, the only reason for the change in language is because of an argument being made that if an independent expenditure is against a candidate, it is a negative ad and the reporting requirements do not apply to them. This issue has been brought to the attention of many of the Committee members by constituents expressing concern that it broadens the scope of the law.

Kevin Benson:

You can reference that the definition of expenditure is express advocacy, and express advocacy is also defined in NRS 294A.0025. We are not intending to expand on either of those terms. We are just intending to clarify specifically in NRS 294A.140 and NRS 294A.210 that it is expenditures that is express advocacy both for or against a candidate.

Assemblyman Duncan:

The expenditure language then is not trying to cast a wider net but it does comport with the change in section 30 of the bill?

Nicole Lamboley:

Correct. You are treating both positive and negative ads equally, and that regardless of the content of the ad, it is an expenditure that is a reportable expenditure.

Assemblyman Hickey:

Has there been any thought given to when a person is a candidate and when he or she is not? If something happens that you determine to be express advocacy during the course of a session, does that then fall under the category that the person is a candidate, or is it treated any differently at different times?

Nicole Lamboley:

I will defer to Mr. Benson for the legal analysis, but I believe it relates to a candidate being a person who is going to appear on a ballot at that time. I do not think it is related to criticizing a public official, but again, I will ask Mr. Benson to further expound.

Kevin Benson:

It would be an unusual case, but it is possible. For example, one of the definitions of express advocacy are the so-called "magic words" from the U.S. Supreme Court decision of *Buckley v. Valeo*, 424 U.S. 1 (1976), which are literally saying vote for or vote against a particular candidate. Because we have our legislative sessions in a nonelection year, it would be unusual to see

an expenditure that asks voters to vote against a particular candidate, but I suppose it is possible that it could happen.

Assemblyman Hickey:

Did we not last session in Assembly Bill No. 82 of the 76th Session define express advocacy to mean something more than just saying vote for or vote against? I know you are not against people exercising their First Amendment right to criticize, but are we broadening this in such a way that we are going to include many people who will have to submit reports just for expressing their views about public figures?

Kevin Benson:

You are correct that we added a definition for express advocacy, because there was none in the statute prior to last session, and that definition does include things beyond magic words. This bill does not affect that definition in any way. To get more to your question, it would be difficult for something to arise to the level of express advocacy, short of magic words, when we are well outside of an election. One of the things that is considered is the proximity to the election. It is quite one thing to criticize somebody's legislative or voting record on the eve of the election versus a year or two prior to an election.

Assemblyman Hickey:

I believe the problem there is that the decision of whether they are in a campaign season or not is, by nature, a subjective decision.

Chair Ohrenschall:

Mr. Benson, in section 24 of the amendment to NRS 294A.0075, regarding expenditures, the new language in subsection 2 reads, "The term does not include payment of money for any communication; (a) Appearing in a news story, commentary or editorial distributed through the facilities of any television or radio broadcasting station, unless the facilities are owned or controlled by a political party, committee for political action or candidate; or (b) Made during a candidate debate or forum or promoting a candidate debate or forum." I am confused by this language, and if I am confused, perhaps other members of the Committee are too. Could you please clarify the intent of this language?

Kevin Benson:

I believe that language does not belong there. I do not believe the intent of this bill was to change the definition of expenditure. This language was actually related to Senate Bill 49 and what are called electioneering communications. This was intended to be an exception to what would be an electioneering communication. We may have to look at doing an amendment because I do not believe that it is intended to change the definition of expenditure.

Assemblyman Oscarson:

Does this language require that if a newspaper were to endorse a candidate, it would have to declare that? Would a television station, if it provided information on a candidate, have to file a report? Would the person who made a radio commentary have to declare that he or she supported that candidate through the media?

Kevin Benson:

This would actually exempt most of that, but the language does not work as it is currently placed in the statute related to expenditures. This language is related to S.B. 49, which was aimed at what are called electioneering communications that require some additional disclosure for certain types of narrowly defined communications. Exempt from that definition would be things such as candidate forums and newspapers, so that the newspapers would not be required to report.

Assemblyman Duncan:

When we are dealing with the "for or against" language and whether or not a group has to file a contribution and expense (C&E) report, is it the intent that we are now saying that it is based on timing? For example, in a non-election year a prochoice group announces that a certain elected official has voted in a particular manner, so give him a call and tell him how you feel about that. Conversely, during the heart of an election, a mailer goes out with the same message. Is there a distinction that in the first scenario the group would not have to file a contribution and expense report, yet in the second it would?

Kevin Benson:

There is nothing in this statute that explicitly sets any time lines. However, time is one of the relevant factors in making that determination, assuming the expenditure in question meets the express advocacy standard otherwise.

Assemblywoman Flores:

Are we attempting to make any changes to NRS 294A.0025? It is my understanding that we are not trying to change the definition of express advocates. Is that correct?

Kevin Benson:

That is correct.

Assemblywoman Flores:

Has there been any issue since last session in terms of the interpretation of this particular statute, and how it has been applied, regarding whether communications were for or against, or somehow ambiguous?

Kevin Benson:

The short answer is yes. We are currently involved in two lawsuits; one does not involve the definition of express advocacy but it does involve the "on behalf of" language. The argument was made that "we are attacking a candidate, but we are not 'on behalf of' any candidate and therefore we do not have to report." That is obviously a separate issue of whether or not it reaches a level of express advocacy. I anticipate that a similar argument will be made in the second lawsuit.

Assemblywoman Flores:

Just because someone challenges something does not mean that there is actually an issue with it. At this point, I think that for the purpose of this bill, I want to clarify that we are not attempting to do anything with the definition in this statute.

Kevin Benson:

That is correct.

Chair Ohrenschall:

Thank you very much for clarifying that Mr. Benson. Are there any other questions for Ms. Lamboley or Mr. Benson? [There were none.]

In Las Vegas we have the Clark County Registrar of Voters, Mr. Lomax, and Mary-Anne Miller, from the Clark County District Attorney's Office.

Harvard (Larry) Lomax, Registrar of Voters, Clark County:

I am here to testify in support of the bill, and I have a friendly amendment to offer. [Submitted the amendment and written testimony ([Exhibit C](#)).] My comments are limited to sections 2 and 3 of the bill, which relate to the conduct of elections.

I will start with section 2 on pages 3 and 4 of the bill. Specifically, my amendment is to clarify and simplify the procedures for filling a vacancy in a nonpartisan nomination. I want to clarify that although the language says nonpartisan nomination, the Secretary of State's Office has interpreted this to include a vacancy in a nonpartisan office. The amendment addresses both nonpartisan offices and nominations in a vacancy. I will use the 2012 election in Clark County as an example to clarify what I believe the problems are and how we can correct them.

A district court judge is a nonpartisan office for which, when a vacancy occurs, a replacement is appointed by the Governor to serve until the next general election. In 2012 there were four district court judge positions in Clark County

that became vacant and eventually appeared on the ballot. The positions in Departments 5 and 20 became vacant prior to the judicial candidate filing period, which occurred the first two weeks of January and beginning on the first Monday. Persons wanting to run for election to fill the vacancies in Departments 5 and 20 needed only to come in during the candidate filing period, pay their filing fee and turn in their paperwork.

On March 2, one and a half months after the end of candidate filing period, Judge Donald Mosley retired creating a vacancy in Department 14. Under the current law, when a vacancy occurs after the end of candidate filing, but before the second Tuesday in April, a candidate must collect signatures from 1 percent of the total number of people who voted in the election in which the individual previously holding the office was elected. Judge Mosley was elected in the 2008 presidential election, which at that time attracted the highest voter turnout in Clark County. More than 482,000 people voted in that election, therefore a candidate who wanted to run for Department 14 had to collect 4,829 signatures on a petition before they could come in to file their paperwork and pay their candidate filing fee. [Referred to written testimony ([Exhibit C](#)).] Let me point out that to get 5,000 valid signatures a candidate would need to collect about 7,500 signatures.

On April 13, about a month after Judge Mosley retired, Judge Kathy Hardcastle retired. Current law states that after the second Tuesday in April, the 1 percent requirement on the petition is no longer valid, but no further solution is given. As a result the Secretary of State's Office issued emergency regulations stating that they were going to use the same procedure, and to file for Judge Hardcastle's position, a candidate would also have to get 1 percent of the signatures of the people who voted in the election in which Judge Hardcastle was elected. She, on the other hand, ran unopposed in the 2008 primary election, which had the smallest turnout we had ever had in a primary election. About 76,000 people voted in that contest, so a candidate who wanted to run for Judge Hardcastle's position in Department 4 only had to get 761 signatures. (Referred to written testimony ([Exhibit C](#)).]

As a result, in 2012 Clark County had four vacant district court positions, all of which have essentially the same responsibilities. For two of the vacancies, candidates only needed to file paperwork and pay their filing fees. The third vacancy required candidates to collect over 5,000 signatures, pay their filing fee and file their paperwork. For the fourth, candidates needed only 761 signatures plus their paperwork and filing fee. There is no logic to that.

My proposed amendment ([Exhibit C](#)) greatly simplifies this procedure no matter when the vacancy occurs and regardless of whether it is a vacancy

in a nomination or a vacancy in an office. The amendment simply calls for a candidate filing period for the vacant position that would be one week long and held the week of the fourth Friday in June.

As a reminder, current statute states that no changes can be made to the general election ballot after the fourth Friday in June. The advantage of delaying it as long as possible is that it gives the Governor the opportunity to appoint a replacement who will serve until the next general election.

Chair Ohrenschall:

This chapter deals with vacancies in nonpartisan offices, but you said it would also be applicable to a nonpartisan nomination in the primary election. Can you give me an example?

Larry Lomax:

Very often in a judicial contest, the incumbent judge is going to be the only person filing for that office. If the incumbent files at the end of the candidate filing period, and something happens to them so they have to withdraw, that creates a vacancy in a nonpartisan office.

Mary-Anne Miller, Office of the District Attorney, Clark County:

The same proposed solution would apply to any nonpartisan office, such as if a school board trustee died in office, or was removed from office, or something of that nature.

Chair Ohrenschall:

Is this amendment viewed as friendly by the Secretary of State's Office?

Larry Lomax:

Yes, I have shown it to Secretary Miller and he has no problem with it.

In section 3 of the bill, lines 20 and 21, would move the date for a minor party to file their presidential candidate to one week earlier, which is the last Tuesday in August as opposed to the first Tuesday in September. I strongly support that change in date. The law requires us to send the overseas ballots out 45 days before the election, which gives us only 12 working days after the first Tuesday in September. We now have over 300 ballots that must be printed in three different languages. We need as much additional time as we can get.

Chair Ohrenschall:

Are there any questions for Mr. Lomax or Ms. Miller? [There were none.]

Is there anyone else in support of A.B. 48 either in Las Vegas or in Carson City who wishes to speak? [There was no response.] Is there anyone opposed to A.B. 48 in Carson City who wishes to speak?

John Wagner, representing Independent American Party:

As the third-largest political party in the state of Nevada, which is incidentally a minor party, we have a vested interest in seeing what happens with this bill. We are against the change in date suggested by the Secretary of State's Office in section 9, which pushes the date for minor parties to file their presidential candidates ahead. It is our belief that this change discriminates against our party, and I would refer you to the decision noted in the U.S. Supreme Court case *Anderson v. Celebrezze*, 460 U.S. 780 (1983), regarding a similar issue that occurred in Ohio.

In section 8 of the proposed bill, the Secretary of State's Office would change the date they are required to adopt the election regulations from December 31 to the last business day in February. Because by law we are required to nominate our candidates by convention, which we hold in February, our candidates will not know what the adopted rules for the election are if the Secretary of State does not have to publish them until the first week in March. We would prefer to leave the date as it is now so that our candidates know exactly what they must do in the election filing period.

The other area that I have a problem with has to do with so-called independent candidates.

Chair Ohrenschall:

Mr. Wagner, what section are you speaking to right now?

John Wagner:

This is a conceptual amendment ([Exhibit E](#)) that would be in addition to the bill as it is now.

Chair Ohrenschall:

That amendment ([Exhibit E](#)) is available on the Nevada Electronic Legislative Information System (NELIS). What section of the bill does your conceptual amendment propose to amend?

John Wagner:

It would be an addition to this bill; we are not replacing any section. This amendment was originally proposed last session. I talked to the Secretary of State's Office on this at that time, and they did not have any problem with it.

When people register to vote, they are given a list of recognized parties and Independent is not on that list, but Independent American Party is. If you want to register as an independent, you must register under "other." Therefore, if independent is not a recognized party, candidates running on the independent platform should file as "nonpartisan" or "no political party" ([Exhibit E](#)).

I have people come to me after the elections are over and say they voted for our independent candidate. I ask them, "The independent candidate or Independent American candidate?" They voted for one or the other but do not know exactly who.

I think the single word "independent" should not be applied to a candidate. They should be identified as either "no political party" or "nonpartisan" to avoid the confusion, which I believe costs our party votes.

Assemblyman Martin:

I want to clarify that you are not trying to lock out the use of the word "independent." For instance, maybe there is a party called the independent water cooler party. Would you be proposing that they could not use the word "independent"?

John Wagner:

I would have no problem with that as there would be two words in their title. It is the use of the word "independent" alone, with no other qualifier, that I object to, as it creates confusion for the voters.

I would like to see this amendment ([Exhibit E](#)) go forward. It was proposed and debated last session but was never actually put forward by the Committee.

Chair Ohrenschall:

I appreciate your perseverance, Mr. Wagner, and we will certainly consider the amendment you propose should A.B. 48 be referred to a work session. We do not want any voters to be confused. Are there any questions for Mr. Wagner? [There were none.]

Are there any other persons who would like to speak in opposition to A.B. 48?

Lynn Chapman, representing Nevada Families Association:

This bill has many things that I am concerned about, including the felony B penalty, which seems to be rather excessive.

Chair Ohrenschall:

Ms. Chapman, is there any penalty level you would suggest or that you feel is appropriate?

Lynn Chapman:

There are some instances that I think should not be a felony; perhaps a misdemeanor would be better.

Our main issue of concern is with the reporting requirements for nonprofits. The Nevada Families Association publishes a voter guide during the general election; however, we are not "for or against" any candidate. In the guide we distribute, we give people our opinion on specific ballot questions. Where do we fit in? It is not for or against anything. We are simply giving information.

Chair Ohrenschall:

Your concern is that by publishing your election guide you would have to file a report?

Lynn Chapman:

No, our concern is when we give our analysis of the ballot questions; does that then put us in the position of having to file a report? We do not endorse any candidates, but we do print their responses to our questionnaire. We gather information and give it to people, so where would we fit in?

Chair Ohrenschall:

You are concerned that you would be forced to report under section 30, even though you are not giving money to candidates due to your newsletter. Is that correct?

Lynn Chapman:

Yes.

Chair Ohrenschall:

Ms. Chapman, you have the floor, but Ms. Cafferata from Planned Parenthood has a comment to make that may help you.

Elisa Cafferata, President and CEO, Nevada Advocates for Planned Parenthood Affiliates:

I appreciate the opportunity to offer some clarification. There are different types of nonprofit organizations. The more common charitable nonprofits cannot do any electioneering. They are not allowed to endorse candidates nor can they give them money.

Chair Ohrenschall:

That is pursuant to the Internal Revenue Service (IRS) code?

Elisa Cafferata:

That is the IRS code. Other types of nonprofits can do electioneering but not the charitable nonprofits. However, charitable nonprofits may participate in lobbying activities as the IRS has determined that speaking to the voters about a ballot question is lobbying, since the voters are the persons who will decide what is going to happen in terms of that law. Any charitable nonprofit can opine and tell people to vote yes or no on a ballot question, because they are just lobbying the decision makers in that case. There is nothing that requires you to report your lobbying activities to the Secretary of State's Office. There are tests for charitable nonprofits to use to determine whether or not they have done too much lobbying.

The other question was in regard to stating that a person made a bad vote. That also falls into lobbying. If you are saying that there is an upcoming vote on a bill about how great women are and your organization feels a certain legislator is going to make a bad vote and you urge people to call him or her up to express an opinion, that is also lobbying. But there are no hard and fast rules at the IRS, so timing is something that they consider. If you ask people to call a legislator during a legislative session, that is clearly lobbying, however, if it is six months later and you ask people to call the legislator, even though you do not say vote against him or her, the IRS is going to look at that more as an electioneering activity. If you are a charitable nonprofit organization and you want to print a legislative scorecard to point out how the legislators have voted on an issue of concern to your organization, that would be considered a voter education activity that charitable nonprofits can also engage in without running afoul of the election laws.

Chair Ohrenschall:

Ms. Cafferata, are you concerned that publishing a scorecard might get your group, or Ms. Chapman's group, caught up in the reporting requirements of this bill?

Elisa Cafferata:

Actually, I submitted my questions and concerns directly to the Secretary of State's Office with the request that they clarify and provide guidance in the guidelines they publish. I might suggest that those guidelines specifically talk about lobbying as a distinct activity from electioneering.

Chair Ohrenschall:

Thank you, Ms. Cafferata, for your explanation.

Assemblywoman Flores:

It is not entirely clear if this is casting potentially too broad of a net in terms of the issue we are trying to address. I do believe that because expenditure is clearly defined within the statute as advocating, "expressly the election or defeat" of a candidate or question on the ballot, there is some guidance in terms of what expenditure means. We should continue working with the Secretary of State's Office and other interested parties to ensure that those organizations who have been participating in legal advocacy can continue to do so.

Assemblyman Munford:

Ms. Cafferata, does your organization send out questionnaires to candidates? Are those questionnaires considered lobbying? Do you use the responses on those questionnaires for or against candidates or simply for information purposes?

Elisa Cafferata:

We are a 501(c)(4), which is a nonprofit organization that is allowed to do both lobbying and electioneering. We send out a candidate questionnaire and may endorse a candidate and/or make contributions to a candidate. Sometimes we work on behalf of a candidate, and sometimes we are against a candidate.

Chair Ohrenschall:

You are required to file reports.

Elisa Cafferata:

Yes.

Chair Ohrenschall:

So that part of your activity is not an issue with you.

Elisa Cafferata:

No.

Chair Ohrenschall:

Is it the part of your activities where you educate the public about someone's voting records?

Elisa Cafferata:

I just was clarifying how distinctions are made between the two kinds of organizations. My questions to the Secretary of State's Office were really along the lines that Assemblywoman Flores pointed out. There is a registration required for nonprofits and a registration required for political action

committees. Since I am a nonprofit that has a political action committee, I do not know if I am supposed to register under both or one or the other.

Assemblyman Munford:

Where do you receive your funding?

Elisa Cafferata:

We do solicitations for contributions from individuals as well as hold fund-raising events. You can go to our contribution and expense reports on the Secretary of State's website and see all of our donors. You can also go to the Federal Election Commission's (FEC) website to view a list of our donors that we use for federal races.

Chair Ohrenschall:

Ms. Chapman, I believe you had a comment.

Lynn Chapman:

I wanted to respond to the question presented by Assemblyman Munford. We mail the questionnaires out to the candidates. They answer the questions, return those responses to us, and we print them. It is for informational purposes only and not to endorse any candidate.

Chair Ohrenschall:

Are there any other sections of the bill that you want to speak to?

Lynn Chapman:

Yes, there is one more. In section 54, line 25, regarding the \$5,000 fine, we feel that is an excessive fine.

Chair Ohrenschall:

I believe you are referring to existing statute and not the proposed amendment.

Lynn Chapman:

I realize that, but I am concerned. I come to the Assembly and committee meetings on my own time at my own cost. As a volunteer, how am I, or anyone in my organization, going to be able to afford to pay that kind of fine? I just wanted to express that concern.

Chair Ohrenschall:

We certainly appreciate your time and participation, Ms. Chapman.

Lynn Chapman:

Thank you. May I ask, if there are to be amendments made on the section regarding nonprofits, would we be able to be part of that process?

Chair Ohrenschall:

I would encourage you to reach out to the Secretary of State's Office and see what common ground there is. Of course, any amendments you wish to propose you may send to me or our Committee Analyst Susan Scholley, and if this bill is scheduled for a work session, the Committee will consider those amendments.

Are there any other questions for Ms. Chapman or Ms. Cafferata? [There were none.] Is there anyone else who wishes to speak in opposition to A.B. 48 here in Carson City or in Las Vegas? [There was no response.] Is there anyone who is neutral and wishes to speak on A.B. 48 in Carson City or Las Vegas? [There was no response.]

Are there any comments the Committee members want to make? [There were none.] Then I will close the hearing on A.B. 48. Is there anybody from the public either in Carson City or in Las Vegas who would like to say anything or make a comment? [There was no response.]

There are no bill draft requests (BDRs) for us to vote on today, so I will close this meeting of the Assembly Committee on Legislative Operations and Elections. The meeting is adjourned [at 5:12 p.m.].

[Correspondence ([Exhibit F](#), [Exhibit G](#), and [Exhibit H](#)) all in opposition to A.B. 48, were submitted to the Committee on Thursday, February 14, by individuals who were not able to testify at that time. The letters and email have been included as exhibits for this meeting at the request of Chair Ohrenschall.]

RESPECTFULLY SUBMITTED:

Karen Pugh
Committee Secretary

APPROVED BY:

Assemblyman James Ohrenschall, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: February 21, 2013

Time of Meeting: 4:04 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 48	C	Larry Lomax	Proposed amendment to A.B. 48
A.B. 48	D	Alan Glover	Proposed amendment to A.B. 48
A.B. 48	E	John Wagner	Proposed amendment to A.B. 48
A.B. 48	F	Vanessa Spinazola	Letter in opposition to A.B. 48
A.B. 48	G	Dan Stanevich	Email in opposition to A.B. 48
A.B. 48	H	June Ingram	Letter in opposition to A.B. 48