

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

**Seventy-Seventh Session
May 7, 2013**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 8:04 a.m. on Tuesday, May 7, 2013, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and to Chilton Circle Modular Conference Room, Great Basin College, 1500 College Parkway, Elko, 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 Pat Spearman, Chair
Senator Mark A. Manendo, Vice Chair
Senator Kelvin Atkinson
Senator Barbara K. Cegavske
Senator James A. Settelmeyer

GUEST LEGISLATORS PRESENT:

Senator Pete Goicoechea, Senatorial District No. 19
Assemblyman John C. Ellison, Assembly District No. 33
Assemblyman Pat Hickey, Assembly District No. 25
Assemblyman James Ohrenschall, Assembly District No. 12

STAFF MEMBERS PRESENT:

Carol M. Stonefield, Policy Analyst
Melissa Mundy, Counsel
Mary Moak, Committee Secretary

OTHERS PRESENT:

Martin Dean Dupalo, Nevada Center for Public Ethics
Patrick T. Sanderson
Geoffrey Lawrence, Nevada Policy Research Institute

Demar Dahl, Nevada Association of Counties; Chair, Board of Commissioners,
Elko County
Jeff Fontaine, Executive Director, Nevada Association of Counties
Steve Walker, Storey County; Lyon County; Eureka County
Janine Hansen, Nevada Committee for Full Statehood
John Wagner, State Chairman, Independent American Party
Yolanda King, Clark County
Kyle Davis, Nevada Conservation League

Chair Spearman:

I call this meeting of the Committee on Legislative Operations and Elections to order. We will open with Assembly Bill (A.B.) 77.

ASSEMBLY BILL 77 (2nd Reprint): Requires a cooling-off period before a former State Legislator may serve as a paid lobbyist before the Legislature. (BDR 17-436)

Assemblyman Pat Hickey (Assembly District No. 25):

Assembly Bill 77 represents a fair amount of deliberation from the Assembly Committee on Legislative Operations and Elections. The bill has changed from the original intention; healthy recommendations have been incorporated.

The bill establishes a cooling-off period for State Legislators. The bill originally had a 2-year time frame, but the intention was a cooling-off period for one Legislative Session. When a person leaves the Legislature in November, he or she would be prohibited from lobbying just the next Legislative Session.

As Nevada has a part-time Legislature, we did not want the cooling-off provision to prohibit people from the ability to have gainful employment. The provision in section 1, subsection 2 states:

The provisions of this section do not apply to a former Legislator if the former Legislator: (a) Is required, as part of his or her full-time employment, to lobby exclusively and directly for his or her employer; (b) Does not lobby for any other employer ...

If you had a job with a certain entity and in the course of the duties of your regular employment you were required to be a lobbyist on a nonexclusive basis, then you would be allowed to do that.

This bill is proactive. It does not become effective until the next election cycle, November 4, 2014. It would not affect members of this Session who might have been planning ahead without preknowledge should this bill pass. What is the reason for having a cooling-off period? The bill tells the public and ourselves that we should be clear from either the perception or the temptation to use your last term in office ingratiating yourself to a future employer which might have an effect on certain decisions you would make.

Assembly Bill 77 models what Congress has done. Twenty-five other states have enacted legislation along these lines. The amendments take into consideration we are a citizen Legislature and might have employment beyond our career here. It is a step in the right direction toward open government and doing the right thing in order to not have the temptation or undue influence in at least the next session.

Senator Manendo:

If we go this route, then we should start next Session, not with the Legislators elected in 2014. My hypothetical question involves Legislator A working for a bank. This former Legislator plans to come back and lobby for that bank. That would be permitted, even if we change the effective date. You are saying Legislators can still lobby if it is in their own profession?

Assemblyman Hickey:

Yes. If it is required as part of his or her full-time employment to lobby exclusively and directly for one employer. You are not a registered lobbyist, but you are working for the bank and it is part of your duties.

Senator Manendo:

With my hypothetical, that Legislator who works for a bank comes back and lobbies next Session for that bank. The bank says we are making you a part-time employee and we still want you to lobby for us. That gives the former Legislator—who is now going to be lobbying next session—an opportunity to pick up other clients in addition to the bank. Then what?

Assemblyman Hickey:

The former Legislator would have the opportunity to relate with others and consider possibilities for the future. He or she would not be able to lobby for another client. Just the one, and only as part of his or her full-time employment.

Senator Atkinson:

As a former Legislator and still working with Clark County, would the bill prevent me from joining the County lobbying team?

Assemblyman Hickey:

If in the course of your full-time employment for the County you are asked to represent it before this body, you would be allowed to.

Senator Atkinson:

I have a different opinion than my colleague to my right, Senator Manendo, about having the bill effective next Session. I do not think we should do it at all. We are a citizen's Legislature, and it concerns me when we talk about what the federal legislature does. The members of the U.S. Congress are full time; they receive a full-time salary and have full-time benefits, etc. That is always a challenge for me, which causes me to question what we are doing. Have we had issues with this recently? Have other states had issues?

Assemblyman Hickey:

No, Senator. It is true. As for the U.S. Congress, usually cooling-off legislation and things of that nature are the result of some scandal. There have been high-profile instances on the heels of Jack Abramoff and Newt Gingrich getting huge amounts of money to come back and lobby Congress. We have not had such a scandal in Nevada, as far as I am aware.

It comes down to the question, is having a cooling-off period the right thing to do? Here is an example: someone who is in leadership in this body has a fair amount of influence over decisions that are made, bills that are heard, and bills that might get passed or blocked. If I knew I was going to work for a certain entity in the next Legislative Session, it might influence my action toward some of those bills. If I was in leadership, it might influence some of the members I directed monies to during the campaign season, helping to get them elected or aiding in favorable treatment to some of their bills. If I came back and lobbied them directly, that would be something they would remember and I might be able to capitalize on such activity.

I have talked a lot about open government. We are all dealing with those things in various bills. We are hearing your Senate Bill 49 from the Secretary of State's Office, which came through this Committee, and the changes that were made

to it. This is another example, even as part-time Legislators, of us trying to not unduly capitalize on the power and the influence we have.

SENATE BILL 49 (1st Reprint): Revises provisions relating to public officers.
(BDR 24-382)

Senator Atkinson:

You just said something I have always had a problem with; people say that all the time. Speaking from the majority party, and I have been in it since I have been here, I have never thought that way. That may be your thoughts about it, and that is fine. If you are the majority party, maybe you would favor a bill because you knew you would work there. A lobbyist or firm or anybody has to know a person's character and know that person is willing to ... that they could go to that person and know they could propose something like that. Anybody in this building would know that I and a lot of my colleagues would never ever allow anybody to approach us in that manner or even think we would be open to something like that. That first has to be clear with folks that this Legislator and Legislative body is not open to things like that. We have to set a better example and behave. We do not need laws to tell us we should not behave in a certain way. True, I understand what happened on the federal level. I understand all that stuff, but we are not them. I have a problem when we try to treat us as the federal legislators. We are not.

Assemblyman Hickey:

When I said leadership, I was referring to myself. Granted, I am in minority leadership and there is a different level of influence, I suppose. Laws are applied uniformly. This prohibition is a reasonable one that we would do as part of our responsibility to be, like you said, above the law. This helps guarantee we always would be.

Senator Settlemeyer:

I would like to clarify a situation where an individual no longer serves in the Legislature and then works for the State; as an example, former Assemblyman Lynn C. Hettrick works for the State Dairy Commission. This bill would not have prevented that because of the concept of it being considered part of his job.

Assemblyman Hickey:

That is correct.

Senator Settlemeyer:

Does the exception follow the rule? Will people gain from it and find a way around it? What are your thoughts on that?

Assemblyman Hickey:

I cannot anticipate all of the consequences. A small percentage of members go into government work upon their retirement. We tried to make A.B. 77 as reasonable as possible with the cooling-off period being one Legislative Session and the allowance for a person in the course of the duties of work, if he or she were required to lobby. The intent is not to cast dispersion upon the lobbying business. We all know its value. A former lawmaker can be valuable. This bill would not preclude him or her from working for firms and influencing policy and some of the activities of those companies or clients that might have a role to play here. It would simply limit him or her from being a formal lobbyist during the next Legislative Session, except under certain circumstances.

Chair Spearman:

Has this happened before? Are we looking at this because it has happened too many times or is it to be proactive?

Assemblyman Hickey:

We have not had an instance in Nevada. This bill does not come on the heels of any scandal. It is a matter of public policy. The Legislative Operations and Elections Committee is the conscience of this Legislature with respect to self-regulation. We help the body do things on behalf of itself or at least introduce concepts like this bill for the body to consider. Bills like A.B. 77 have been introduced in other places and other states. We already have prohibitions in the State for certain agency heads, which includes a 1-year, cooling-off period. There was another bill that spun from this for other elected officials along these lines. It is good open government to regulate ourselves in a good way.

Martin Dean Dupalo (Nevada Center for Public Ethics):

We endorse A.B. 77. Listening to the concerns about the bill, good policy does not need to be scandal-driven. This is a sound policy. You may not catch everything this time around. Perhaps in the future, A.B. 77 may need to be amended to cover something not foreseen. The Nevada Center for Public Ethics supports the bill and believes it is a good bill along with A.B. 438.

ASSEMBLY BILL 438 (1st Reprint): Requires a cooling-off period before former public officers who served on certain public bodies may serve as paid lobbyists on matters under consideration by those public bodies. (BDR 23-815)

Patrick T. Sanderson:

There is no one in this building I respect more than Assemblyman Hickey. He does a terrific job. He is a good gentleman.

This is a small State. If someone comes in here and does something that is not right, we have Legislators right here in this body that would shut him or her down in a minute because it would make the Legislators look bad. I do not like putting a law like this on the books. Any employer can write out a deal that says it is his or her job to be a lobbyist for us. If we want to protect ourselves; we protect from within. Looking at the people in front of me, you would know and you would not allow this to go anyplace. I have respect for the people who get elected to our offices. When Legislators leave office, there are only so many smart minds who come back and talk to us. If they are smart enough to get the job and come back and talk to us, we are smart enough to know if they are bad people. The intent of this bill is good, but this is the State of Nevada. I like to shake somebody's hand, look him or her in the eye and go with the way that I feel. With all respect to Assemblyman Hickey, I do not think this is needed because there are too many ways to get around for any troublemakers that would come in. I am against A.B. 77.

Assemblyman Hickey:

Thank you for questions and concerns; they were also raised in the Assembly. This bill was sincerely vetted. Like Mr. Sanderson said, I do believe we are a small State and have good people here. Given the opportunity to do what is right, this is good open government legislation, and we should be in favor of it.

Chair Spearman:

We will close the hearing on A.B. 77 and open the hearing on A.B. 438.

Assemblyman James Ohrenschall (Assembly District No. 12):

Assembly Bill 438 is inextricably tied to A.B. 77. When we heard A.B. 77 in the counterpart to your Committee in the Assembly, a discussion arose: if a cooling-off period is good public policy, then why limit it only to those of us

who are in part-time service at the State Legislature? Why should it not also affect local governments and the Board of Regents?

Assembly Bill 438 calls for a 2-year cooling-off period for elected representatives on local boards and on the Nevada System of Higher Education Board of Regents. It would prohibit former members from solely lobbying that board on which they served. This bill would not foreclose someone's opportunity to work as a lobbyist or a legislative advocate. The Committee realized the right to petition is a constitutional right, and people have a right to work in that field if they wish. We wanted to hit that revolving door. We do not want an ex-county commissioner lobbying that same county commission. Assembly Bill 438 would allow a county commissioner to lobby another county commission, city council, State Legislator or Congress, but not the board to which he or she served. This bill addresses many of the same issues Assemblyman Hickey mentioned earlier. It is good policy.

Senator Settlemeyer:

There was a situation in Douglas County where a county commissioner quit his job midterm because he firmly believed in preserving the agricultural lands within Carson Valley. The former commissioner formed a company that purchased development rights from ranchers and retired them in perpetuity. He then would appear before the Douglas County Commissioners to lobby for issues, such as master plan changes and things of that nature. Would A.B. 438 have prevented him from lobbying before the Douglas County Commissioners?

Assemblyman Ohrenschall:

I do not believe so; perhaps I need to defer to Legal. Page 2, section 1, subsection (3), paragraph (c), lines 23 through 29 define "lobbyist" as "a former public officer listed in this section who, for compensation or other consideration, communicates directly with a member of the public body"

I do not know if the former Douglas County commissioner received compensation for the lobbying or if he was lobbying for the good of the community and the agricultural area. I do not believe it would apply to his ability because no one is prevented from talking to his or her representatives about an issue of concern. That would be unconstitutional.

We want to prevent someone from being hired as a legislative advocate. We are prohibiting a former officeholder from legislative advocacy for a cause that he or she believes in.

Senator Settlemeyer:

More facts may need to be added to the situation. The former Douglas County commissioner created a company and paid himself a salary. I would consider that he was being compensated—not by another employer—by himself. I think that runs into the same issue.

I have questions and concerns about A.B. 438 as I did with the previous bill, A.B. 77. When you are a representative at the State level, that is one thing, but when you are representing a small county, it bugs me because you are limiting employment. I appreciate the concept of the bill, but I have to study that aspect of the bill more because that would have prevented my friend from doing the great work he has done, which has preserved over 20,000 acres in Carson Valley from threat of development.

Assemblyman Ohrenschall:

Senator Settlemeyer, I will attempt to answer your question. Oftentimes you ask an attorney a hard, direct question and you will get the answer, it depends. In this example, a lot of factors would have to be looked at. Was the salary from his company specifically for the purposes of lobbying and advocating at the Douglas County Commission, to which he used to serve? I and the other Committee members in the Assembly Legislative Operations and Elections did not intend to block anyone's freedom of speech or his or her right to talk to representatives and advocate for issues he or she cares about. We wanted to look at that revolving door and ensure a cooling-off period as in A.B. 77.

I am open to any amendments. I would not want to foreclose the good work akin to your example. The intent is to make sure someone does not use public service to have an advantage over others.

Senator Atkinson:

While I respect my colleague Senator Settlemeyer, we do not agree on a whole lot. Actually we agree on plenty. I understand his question, but the problem is if we start to look at folks like that and then we make these carveouts for everybody, then the bill is not effective.

I have a problem with measures such as A.B. 438 and A.B. 77. In our small State, I am concerned about telling someone bright and smart that he or she cannot lobby because we have set these artificial time lines. I am not sure what we are getting at. What is being prevented by having a cooling-off period? This bill is not stopping anybody. If former elected representatives want to lobby, they are going to do it. They may have to wait a year or two to get the big paychecks with the new employers. If it is worth their while, they will wait. I do not know what we are preventing.

We are doing an injustice in our own State because we cannot have some of the bright and finest lobby us. These folks come here, you come here, I come here, and as a result of putting our name, our character, our families and everything on the line, we end up with a skill. Talk about fairness —we now tell the fair and honest person who has worked hard to craft skills that because we perceive you could do something illegal, we need you to wait a year or two? I have a problem with that. I think my colleagues are a little more honest than some others I have seen.

Assemblyman Ohrenschall:

Senator Atkinson, you bring up many valid points. There is no perfect law. Whenever you pass a statute meant to do good, it can cut both ways. Inevitably, people with the purest of intentions will be subject to that cooling-off period.

The bill would only be prospective. It would not apply to people unless they were elected after the effective date of July 1. The folks who are running for local board positions or the Board of Regents would know of a cooling-off period. People currently serving who want to work as paid lobbyists would have that option to not run again if they chose to enter the lobbying field.

Could the law have consequences in terms of preventing someone's employment? It is possible. The law is not meant to attack anything illegal; it is the perception the Minority Leader spoke about. For people who have been in the Legislature for a long time, it is not just the skills they have learned; relationships would give them an unfair advantage in their advocacy.

Senator Manendo:

The effective date for A.B. 438 is July 1. The effective date for A.B. 77 is November 2014. Can you give me the rationale as to why one is effective for the next Session and A.B. 77 is effective the 2017 Legislative Session?

Assemblyman Ohrenschall:

Both bills' effective dates accomplish the same goal. The reason for the different effective date on A.B. 77 is the Nevada Constitution prescribes the terms begin the day after the general election, even though we get sworn in at the beginning of session.

Both bills are meant to allow anyone who is currently in office to choose not to run again if he or she desires a career in lobbying. New candidates or candidates who choose to run again in the next local or general election would go in with eyes wide open and know they would be facing a cooling-off period after leaving office. If there was a special election held for a council person in December of this year, then A.B. 438 would be applicable. Individuals could still lobby any other boards in the State, State Legislature or Congress.

Senator Manendo:

If I am a county commissioner in Clark County in the middle of my term, could I lobby the County Commission after I decided not to run for reelection in 2014?

Assemblyman Ohrenschall:

Yes, you could. You would not have been elected after the July 1 effective date. Nothing would prohibit you, unless there was some county ordinance.

Senator Cegavske:

A candidate runs, loses and then becomes a lobbyist, having received money from different entities. This would not affect a candidate; it is only if you have won an election and served?

Assemblyman Ohrenschall:

The bill would not affect challenger candidates, only incumbent candidates. If an incumbent candidate lost, then the 2-year, cooling-off period would apply. But if someone who is not currently serving ran for office and did not win, nothing precludes that person from lobbying. The key here is the election, the fact that the person was elected.

Mr. Dupalo:

I support A.B. 438. Senator Atkinson had a concern about skills being developed and those skills not being put to use. My understanding of this bill is it is not that you cannot lobby. It is not that you cannot be paid for lobbying. It is not that you cannot use those skills. It is you cannot use that relationship you have just left from public office with that same public body. You are looking at that skill set; you can employ people, you can still have that company, you can still lobby others, but you cannot lobby directly from that position from which you left. You are not denying anybody that ability.

Assemblyman Ohrenschall:

Thank you for your attention to this bill. No bill is perfect. I am open to any suggestions to amendments or thoughts to improve the bill. I feel the bill is needed. The bill is narrowly tailored. It still allows people to work as a legislative advocate if they so desire. It gives the public more faith in the process.

Chair Spearman:

We will close the hearing on A.B. 438 and open the hearing on A.B. 227.

ASSEMBLY BILL 227 (1st Reprint): Creates the Nevada Land Management Task Force to conduct a study addressing the transfer of certain public lands in this State. (BDR S-594)

Assemblyman John C. Ellison (Assembly District No. 33):

Assembly Bill 227 asks to create a study to look at issues pertaining to the public lands in Nevada. This bill is important not only for the future of Nevada but the Western states. There are several other states proposing legislation to create similar studies.

Assembly Bill 227 contains a number of whereas clauses. It spells out the challenges facing Nevada and our Western neighbors. Let me highlight just a few. Eighty percent of our State is owned by the federal government, the highest percent in the West. Second, the federal lands are restrictive and highly regulated.

Our economy and residents will benefit from being able to control and balance the use of federal lands and the revenues for these uses. In 2012, Utah took the first step for the West by passing House Bill (H.B.) 148, which requires the federal government to turn over federal lands in Utah. Other states like Idaho

and Wyoming are working toward the same goal. There are eight other states looking at the same issues.

In order to be ready for that day for which H.B. 148 lays the groundwork, Nevada needs to develop a plan of land transfer that would orderly and effectively meet our goals. Assembly Bill 227 will create a Land Management Task Force representing the 17 counties. The members will be county commissioners appointed by each county commission in conjunction with Nevada Association of Counties (NACO), starting no later than July 1. This study will include, among other items, identification of federal lands and the rights and uses of the lands; a plan of managing transferred lands, such as which lands to use, lease or sell; an economic analysis to understand the cost of the transfer; and the revenue impact, good or bad. The Task Force is to submit a report by September 1, 2014, to the Legislative Committee on Public Lands. Finally, the Task Force will sunset on June 30, 2015, having made itself available during the Session to answer questions from the Legislature.

The City of Elko has been trying to expand its boundaries for many years. Spring Creek has grown like crazy but within the City boundaries, Elko is surrounded by public lands. We have requested Congress to introduce a bill to open Nevada's public lands, but the request is still pending.

The study requested in A.B. 227 creates no financial burden for the State. The cost of the study will be carried by the counties.

Senator Pete Goicoechea (Senatorial District No. 19):

Assembly Bill 227 originally started as a State-funded study. The bill was amended to be funded and supported by the counties and NACO. The Task Force would be required to report to the Legislative Committee on Public Lands at its regular meetings. The Task Force would bring pieces of whatever it was studying during that time. At the end of the study period, the Task Force would present its findings to the Legislative Committee on Public Lands, which would compile the findings into a report to be submitted to the full Legislature in 2015.

The questions outlined in the bill are being asked across the Western states. Utah brought a bill forward in its last session requiring the United States government to transfer title to public lands to Utah.

The majority of the lands in Nevada are technically federal public lands. The bill is asking if a mechanism exists that allows for some or all of these lands to be returned to Nevada, how would we deal with the management of the land? How would we transfer the lands? How would we fund it, what lands should be disposed of, what lands should be held in perpetuity, either by the State or the federal government? Could the State afford to fight the fires on these properties? We intend to come up with the information and the facts before legislation by either the federal government or the State comes forward to return some of these lands.

Red Rock Canyon and Tule Springs among others are issues we are either addressing through resolutions or legislation in Clark County. This bill will allow Clark County to bring those areas forward and say we think these lands would be better served if they were in a national park. The gun range could be returned to the State and/or Clark County. Yerington has federal legislation to purchase Bureau of Land Management (BLM) acreage.

The bill would provide an inventory of all these lands brought forward by the county commissioners who would like to see these parcels designated as lands returned to the State.

Assembly Bill 227 does not cost any money. The study will be funded by NACO and local governments and give us a tremendous amount of data for compilation by the local governments. We should not be afraid to have that information.

Chair Spearman:

Assembly Bill 227 does not change anything; it simply authorizes a study?

Senator Goicoechea:

Yes.

Chair Spearman:

Would the Task Force take into consideration things like sacred burial grounds or other ...

Senator Goicoechea:

When we get into the rural areas where we have some major mining issues, we all know those tribal concerns of the Native Americans are issues. What makes this so good is the local jurisdictions understand those issues and what has to

be addressed. If you are in Elko County, you know to deal with the Te-Moak tribe and the South Fork Band. For Clark County it is the Moapas. The county commissioners know who the players are and whom they need to contact. We will do a lot better job than ... we could comprise a committee of 9 or 11 people out of this body, but we could not provide nearly the expertise as far as understanding the needs of a specific community.

Assemblyman Ellison:

Environmentalists, members of the U.S. Forest Service and BLM will be involved with this process. Everybody will be included.

Geoffrey Lawrence (Nevada Policy Research Institute):

The 1864 Enabling Act by which Congress granted Nevada statehood declared that Nevada "shall be admitted into the Union upon an equal footing with the original states, in all respects whatsoever." However, the Act then attached conditions to Nevada's statehood to which the original states were never subject, including the loss of most of the land within the State's boundaries to federal ownership. In 1845, the U.S. Supreme Court declared an almost identical provision contained in the Enabling Act for Alabama unconstitutional because it ran afoul of the equal footing doctrine, which is in the U.S. Constitution. The Court said "the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory of which Alabama, or any of the new states, were formed, except for temporary purposes." As soon as the new states were formed, said the court, the power of the United States over these lands as property was to cease. In 1979 the Nevada Legislature first began to make this a serious issue when it passed *Nevada Revised Statutes* (NRS) 321.596 to NRS 321.599 inclusive. This text states:

The attempted imposition upon the State of Nevada by the Congress of the United States of a requirement in the enabling act that Nevada "disclaim all right and title to the unappropriated public lands lying within said territory," as a condition precedent to acceptance of Nevada into the Union, was an act beyond the power of the Congress of the United States and is thus void.

This legislation was passed in Nevada in 1979 and kicked off the Sagebrush Rebellion, which has since garnered support across the Western states. In 1996, Nevada went a step further and passed an amendment to the

State Constitution that removes the disclaimer of interest in public lands. Today, that provision appears with a footnote saying the amendment cannot become effective until we receive congressional consent or a judicial determination saying that consent is not necessary. In the 13 years since Nevada passed that State amendment, the U.S. Congress has failed to act. Assembly Bill 227 is the next natural step. In 1993 and 1995, S.J.R. No. 27 of the 67th Session originally passed both chambers unanimously. In 1996, as Ballot Question No. 4, the amendment garnered 57 percent of the popular vote. It is something that has been a popular mandate in Nevada for a long time.

Important revenue aspects apply to any potential transfer of public lands to the State or to county control, especially with the implication that at least a portion of these lands might become available for private ownership. These implications are first the point of sale. The way land sales have worked in the past is 95 percent of the revenue would accrue directly to federal coffers, and 5 percent of the sales proceeds would go to State authorities. There is an immediate cash inflow. Second, once these parcels enter the private property rolls, they become subject to the annual property tax which can be used to fund public schools and other public services. There is an ongoing revenue component as well.

There are costs to land management if the State were to take this on. Given this is only a requested study, we can anticipate any concerns that might come up and readily plan out what the financials might look like for this proposal. Similar legislation is moving through other Western state legislatures to create these types of studies. The Nevada Policy Research Institute makes these comments with strong support.

Demar Dahl (Nevada Association of Counties; Chair, Board of Commissioners, Elko County):

I would like to give you the history of the origin of this effort. Elko County received a Travel Management Plan from the U.S. Forest Service. The Board of Commissioners tried to work with the Forest Service for Elko County's interest to be included in the Travel Management Plan. We were not able to do this. A travel management plan discussion had been taking place throughout the West, and many other counties had the same problem we did.

In March 2012, a hearing was held in Elko by a subcommittee of the U.S. House of Representatives Committee on Natural Resources. Following this

hearing, the Subcommittee on National Parks, Forests and Public Lands met in Elko for the purpose of discussing the Travel Management Plan for Elko. Many counties from across the West participated in the hearing. After the process, we were ignored by the Forest Service. After that frustration, along with many other counties we tried to figure out what we could do to bring more local control over the natural resources so important to our economy and our way of life. We decided the best thing we could do would be to copy the bill Utah passed calling for the transfer of public lands from the federal government to the State. It is important to understand that Utah did not include national parks, wilderness areas and monuments in the demand for the return of public lands.

Elko County, with the suggestion of Senator Goicoechea, took a different tack than Utah by first figuring out all the implications of a land transfer. How do we transfer the multiple uses on federal public lands to use by the State? In other words, if you can hunt rocks, cut wood, have a mining claim or anything else you can do on public lands now, how do we transfer so you may still do those activities? Utah passed its bill first and then set up a commission to figure out the revenues and costs. We are asking for A.B. 227 which approves a study to find the answers to those questions.

The county representatives on this Task Force will be reporting back to the county commissioners on the meetings held between now and the next Legislative Session. A final report will be delivered to the Legislative Committee on Public Lands. County commissions will put the report on their agendas, and we will have transparency. Everyone will have an opportunity to know what is to be discussed at the commission meetings. We will be there to express people's concerns and get their ideas, including how this should happen.

There will be no cost to the State. The study will be funded by the counties and NACO. A lot of us think this is a good idea. In order for the study to succeed, a lot of people have to think it is a good idea. This is a good opportunity to find out if requesting the transfer of public lands to Nevada is a good idea. Is it something the State can do? Can the State manage the land? Can the State manage it better so we can prevent the huge fires that cost so much money to contain? Can we afford to contain fires? We should have the answers to all these questions by the time this process is finished. If this report goes to the Legislative Committee on Public Lands and then becomes a bill, this will be the most vetted bill that has ever come before the Legislature. It is a great idea, and we urge your support.

Senator Manendo:

You said the State will not pay for the study; the local governments pay for it. To have on the record, I was surprised this bill did not go to the Assembly Committee on Ways and Means as there is a financial cost to the study. What is the cost breakdown to the counties? I do not want the majority of the study being paid by Clark County. Before we move this bill forward, I would like to get a breakdown of what each of the 17 counties are to contribute.

Mr. Dahl:

First, we can start with the citizens who are participating. They are the ones to contribute the most with their time. I assume there are going to be meetings all over the State. I assume people will contribute their time, and their counties will contribute the cost of transportation. Other costs involved will be combining the information in the report to submit to the Committee on Public Lands. I do not see any other costs to the study. I do not know why it should cost the State.

Senator Manendo:

I did not say what it may cost the State. I asked what it will cost Clark County; we still have to look at that. We have plenty of bills that impact local government that go through the money committees. This bill did not. I have a concern with that.

I understand people volunteer time; we do that regularly. There are going to be costs to the local government. I would like to get a breakdown of the costs to each particular county.

Mr. Dahl:

That was above my pay scale to make those decisions.

Chair Spearman:

Ms. Mundy, would this study qualify for staffing?

Ms. Mundy:

No.

Carol Stonefield (Policy Analyst):

A provision in *Nevada Revised Statutes* requires the Legislative Counsel Bureau staff to staff only committees chaired by Legislators. It is not anticipated that this study would be staffed by legislative staff. If I may speculate to

Senator Manendo's question from reading the bill, NACO and the counties are expected to provide staffing.

Senator Settlemeyer:

According to the fiscal notes online, the rural counties are stating it is up to the individuals to pay their own way to attend the meetings. It is part of the process. Clark County submitted a fiscal note of \$16,000 with \$500 to the member for each meeting and \$500 additional for lodging. Clark County has a fiscal note of \$16,000; all the other counties have listed zero.

I think the bill has a lot of merit. I appreciate the way it was brought about in the Assembly.

I attended a seminar in Utah where these issues were discussed. At that seminar, there was reference to a Western state in 1862 that talked about the fact it did not have the ability to pay for education and to expand as 70 percent of the state was owned by the federal government. That is why the Western state of Florida decided to send a letter to Congress saying it needed to get a little bit more land. This study addresses the issues.

Sadly, there are some lands in Nevada that even if you gave them to a rancher, he or she could not raise enough from the land to pay the taxes. Some lands just will not work. I appreciate this study to look at all of the possibilities. The Task Force has a lion's job in front of them having to evaluate that. I appreciate NACO stepping up and taking the cost and burden to assist in this situation.

Jeff Fontaine (Executive Director, Nevada Association of Counties):

The NACO is in support of A.B. 227. The third whereas paragraph of this bill talks about 81 percent of the land in Nevada being managed by the federal government. In some counties, that percentage exceeds 95 percent. The NACO thinks it is important for the counties and the State to address the issues before seeking to have some of these federal lands transferred back to them. It is important to have these federal lands for many counties for their economic development and overall sustainability.

With regard to the makeup of the committee, 75 county commissioners across the State on 17 boards of county commissioners work with federal agencies daily and with other interest groups and constituencies. The NACO thinks it makes sense to bring these issues from the ground up and through the

Public Lands Committee. The NACO has agreed the individual counties would pay for the travel and per diem costs for each of the individual county representatives on the Task Force. To some extent we can have videoconferencing or other means to reduce costs for the counties; we will be taking a look at that.

As for the actual preparation for the report, we at NACO will be providing the work, administrative support and research. We will ask individual counties to participate financially and with in-kind services. We know there are counties that have individuals with certain expertise in these areas. We have had these discussions. It is not our intent to impose an undue burden on any county, including Clark County, to accomplish this effort. We work closely with the Public Lands Committee, attending its meetings. It is of a great interest to the counties, and so this seems to be a natural fit and one we can accomplish well.

Steve Walker (Storey County; Lyon County; Eureka County):

The five counties I represent are in favor of A.B. 227. Three of them have federal land exchange efforts ongoing—Carson City for 9 years and Douglas County for 6 years; Lyon County gave up 2 years ago. Consolidating this effort will help the State overall and help the individual counties. Because the counties have made these individual efforts, some of the data this study seeks already exists, and the counties know the lands they want to exchange.

Chair Spearman:

The counties will pay their costs for the Task Force. How does that break down per county? Is it an equal share; are we talking about 30 percent for Clark County and the other counties picking up the rest of it? Are we talking 10 percent? What are we talking here?

Mr. Fontaine:

The individual cost for travel would be up to each county. As far as support for the report itself, we have not determined how that would be done. We have had discussions seeking help from the counties that can afford to help and the counties that have the in-house expertise to help us. We have not gotten the details of exactly how much this report would cost. We anticipate doing most of the work in house. Within the next couple of weeks, NACO will have a board meeting. Perhaps we can put this on the agenda and come to a conclusion, if that is something you would need us to do.

Janine Hansen (Nevada Committee for Full Statehood):

The Nevada Committee for Full Statehood was organized because we recognize Nevada, unlike the states east of the Mississippi, is not a sovereign state. We only control a small portion of our lands and are not capable of utilizing land for our own citizens as many other states do. We are essentially a territory of the federal government and not a state. This bill is exciting, allowing us to look at the opportunities and possibilities. I have been involved in this issue since the 1970s. Last year, I had an opportunity to visit many of the counties, speaking with the county commissioners. I learned that in Lincoln County, only 1 percent of its land is in private ownership. Lyon County has no tax base and cannot pay for its own citizens and services. One county commissioner stated the county had been working for 10 years to get a mine open that would provide employment. This kind of red tape makes it impossible for economic development in many counties. A friend of mine is the only rancher left in Clark County as a result of BLM and others' policies.

The fact that we do not control our own destiny in our own land as other states do has significantly harmed our families and our individual communities, without the opportunities to expand economically and to utilize those resources in a responsible way.

During the early years of 2000, Utah did a study called the Apple Initiative. The study showed Utah could fund education by utilizing the land's natural resources. Nevada is always looking for money to fund education. This is one of the most important reasons we need to have this study, so we can support the needs of the State in a most responsible way. Many of the lands in Nevada have inheritable rights attached. They are not available for wholesale because of people with grazing rights, as those are inheritable, and there are property rights. Those inheritable rights and fee lands will need to be taken into consideration as we look at this.

I attended the congressional hearing in Elko County which Commissioner Dahl talked about that initiated this bill. I was astonished at the numbers of people from other states and counties who came. I was particularly interested with their concerns about fire prevention. Eight years ago, I moved to Elko, and last year we had a fire that came within 1.5 miles of my home, which is 10 miles outside Elko. The year before, we had a fire that came within a mile of my home. This is a significant issue. My brother lives in Arizona and was evacuated from his home for a month because of the terrible fire that took place along the

Arizona-New Mexico border. People from his county were at the hearing talking about how they could have prevented much of the property damage which took place had they had control of the situation and their own natural resources.

This is critical for the future of our children, our families and our State economy to look at how we can resolve this in a responsible and positive way. The Nevada Committee for Full Statehood fully endorses this study and hopes we ourselves will be able to participate. It needed to have happened for a long time.

John Wagner (State Chairman, Independent American Party):

I support everything said here. I am generally known as an impatient person. If we are going to do this, I want it now. Just take it all back now. I know that is not practical after hearing the testimony. The study is good. I hope members from other states will tell us what they are doing so we can get insight from them. As far as transportation costs, whomever the county appoints to do this should be willing to sacrifice some of the transportation costs on their own because it is a civic duty to see what is underway with our State. I support this 100 percent.

Senator Cegavske:

I had the pleasure of meeting with senators and assembly people from across the Nation in national conferences I have attended. I have met and worked with some of the Utah legislators in their goal to make sure the Western states can get caught up with the Eastern states. It was interesting to see the history of what has happened on the East Coast and how much property those states own. You get to the middle of the United States, and there is more property owned by the federal government; then you get to the Western states, and we do not own much of our land. I commend the Senator and Assemblyman for bringing this forward. This has been worked on for quite a while, and I am pleased to have my name on it and support it. I agree with John Wagner. I would like to have it all now, and I think we are many years behind.

Yolanda King (Clark County):

We are neutral. The study would be a good idea. However, as mentioned by the Committee members, my concern is about the cost. I was not aware there may be additional cost specifically borne by the counties. We knew there was a fiscal note concerning the travel. I would ask when conducting meetings for this purpose to lessen the cost on the counties if the meetings were split between the north and the south—as opposed to Clark County traveling for all

the meetings. In addition, there are administrative costs associated with the study. Clark County is okay with providing the administrative work to gather information, but you may have consulting fees related to the study. If there are consulting or additional fees outside the travel and administrative costs, then I would like to know those costs and that Clark County would only be responsible for paying one-seventeenth of the amount of the cost associated with study as opposed to halving the prorated on a population basis. That is my concern.

Senator Manendo:

That is where I was going. I wanted to make sure we have some equity. I did not want Clark County to pay the majority of the cost of whatever we do. My constituents have had it up to here with actions like that.

Kyle Davis (Nevada Conservation League):

I am neutral on A.B. 227. I was opposed to the bill in its original form on the Assembly side. But given where the policy of the bill is now with a committee looking at these issues but not requiring State resources, I am comfortable with that.

A lot has been said about the history and background on the issues dealing with federal management of public lands in Nevada. The findings of the whereas clauses in the bill made me uncomfortable, but I felt neutral was the appropriate place given the policy of the bill with which I do not have a problem.

The first clause on page 2 says, "the western states have been placed in an inferior position." That is debatable because we also get great benefits from the federal ownership of public lands in Nevada. Nevada has a national park, wilderness areas and national conservation areas. These are all things that benefit the quality of life of citizens in our State. In addition to the economic benefits that come from federal ownership of public lands, grazing leases would be more expensive if administered by the State. These are all lands that the State does not have to administer and manage. This expensive process is borne by the federal government. In many cases, local governments receive payment in lieu of taxes from the federal government in exchange for land not being in private ownership. These lands might not necessarily end up in private ownership if they belonged to the State. There is this feeling that federal ownership in Nevada is inherently bad. I do not believe that is the case; a lot

more should be taken into account. In terms of the policy of the bill, it makes sense to look at these issues.

Senator Cegavske:

Thank you for your lukewarm support. This is important for Nevada. Being managed right is what you are looking at—that it has to be done correctly. I hope you will be at the table. We need insight from all parties. That is what my two colleagues have wanted from the very beginning. That is what we all want. We are glad to have you at the table and think you bring an important resource. Thank you for not opposing this. I appreciate that.

Mr. Davis:

Thank you, Senator Cegavske. I have had conversations with Senator Goicoechea and Assemblyman Ellison. They have both been very gracious and welcomed our input in this process. We plan to participate.

Chair Spearman:

For the record, the potential fiscal note for the counties, particularly Clark County, needs to be addressed quickly.

Senator Goicoechea:

Assembly Bill 227 gives the counties seats at the table. It does not impose any fiscal note on them. Nothing in the bill says you have to pay x amount of dollars by population, line amounts or otherwise. This is a joint effort by the counties and NACO. It is such an issue to most of our constituents and people across the State that the counties are prepared to come forward.

I do not know how we deal with the fiscal issue. How can we assess if Eureka County or Elko County will make in-kind staff available to offset this? I see the meetings occurring all over the State. The reason county commissioners were selected to represent their counties is they already have a salary. It is not a case where you have to pay somebody. I have talked with six of the counties I represent; they are supportive and intend to make some level of in-kind staffing and resources available. I do not know how we put a fiscal note to the study. The bill came from the Assembly without a fiscal note. We could go to Fiscal or Legal; it was their determination to not include a fiscal note as amended.

This is a combination of the counties coming together. Questions need to be answered. First and foremost, can it happen, is it affordable? Until we get that question behind us, we will continue having the debate we have had for the last 40 years.

Chair Spearman:

Let us look at this 360 degrees and cover all the bases. Right now, you do not anticipate additional costs, but costs may surface as you go deeper. As to Ms. King's concern about additional costs and whether consultants were needed, what would the cost be? I want to make sure we go in with our eyes wide open and not wide shut.

Senator Goicoechea:

I appreciate that. We need to hustle along. We have 10 days to have the bill out of Committee. I can meet with you or your staff and determine what you would like to see. The NACO is having a board meeting, maybe there is consensus among that group. The study is really open-ended. We cannot say today how often the Task Force meets. We know it needs to meet a lot, working to bring these answers forward. Yes, there will be expenses accrued. Nothing in the bill will say how much a county needs to pay. All the bill does is extend you a seat at the table. If you do not want to bear any of the cost, you have the right to sit at the table and say this is what we would like to see. There is enough effort across the State and people who want these questions answered. My constituents are willing to bear that cost.

Chair Spearman:

I do not want to put you in an untenable position. If we get into the study and other costs arise that we have not anticipated, there will be blowback. What would be a typical consultant's fee? Look at this as a course of action but also what might be the unintended fiscal consequences. The consequences might happen, but if we are prepared, we are further along.

Senator Goicoechea:

Yes. I agree with you. This project will cost a minimum of \$100,000. The money has to come from someplace. The bottom line is the counties are willing to step up, whether it is in-kind work they bear or through the most part ... you cannot meet and not have it cost money. You cannot supply a notebook unless somebody pays for it. There will be costs, there is no doubt. I do not know how we crunch these together in a timely enough manner to get the bill processed

and moving forward unless we get something from the counties saying, "We support this."

Assemblyman Ellison:

I sit on several of the State boards for Elko County. I sit on a blue ribbon task force and several different commissions that we met with. The county commissioners were chosen for these positions because the only expense is travel. We already receive a salary through the county commissions.

Elko, Ely, Eureka, Humboldt and White Pine Counties are willing to step up. These people are so involved and want to see this study done, they are offering in-kind help. They will do whatever it takes to get this study done. There will probably be a cost of about \$100,000 by the time it is all in, but they are willing to step up to the plate. It is something the counties would benefit from.

Chair Spearman:

In the interest of transparency, we had another study before us last week. I asked those same questions and continue to ask those same questions. I cannot move on A.B. 227 until we know what the costs look like. I am not singling you out. I need for the Committee to know the potential costs before we can move forward intelligently. The best decision is a fully informed decision. We can talk about this in macro terms for the counties, but when we go back to our constituents, is it micro. Our constituents want to know why you agreed to this study, particularly my constituents. I represent most of North Las Vegas, and we are not fiscally well right now. Look at it from a macro level, but also understand the concerns we may have from a micro level.

Senator Goicoechea:

We will pull some numbers together through NACO and the counties and get as many people to affirm and sign on as we can by the time you have the bill scheduled for a work session.

Chair Spearman:

We will close the hearing on A.B. 227. We will open the work session on A.B. 407.

ASSEMBLY BILL 407 (1st Reprint): Revises provisions governing residency requirements for candidates for public office. (BDR 23-606)

Ms. Stonefield:

Assembly Bill 407 was heard in this Committee on April 25 and presented by Assemblyman Pat Hickey, Assembly District No. 25.

At the time the work session document ([Exhibit C](#)) was prepared, there were no amendments offered. It is staff's understanding Senator Settlemeyer has prepared an amendment ([Exhibit D](#)) relating to assessing fees in a challenge to a Legislator's residence.

Senator Settlemeyer:

During testimony, we discussed having to list out the different costs for the person who brought the contest and lost. It would be simpler if we deleted all that and just said: "any costs, including attorney's fees, actually and necessarily incurred by the prevailing party in connection with the contest, in an amount not to exceed \$4,500." I felt it added clarity to the bill.

I still question that the bill came about because of a situation. I am not sure if the bill will address that situation, but I appreciate the concept of the bill. I was offering the amendment to clarify it and make it a bit simpler.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 407.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Spearman:

Seeing no further business this session is adjourned at 10:03 a.m.

RESPECTFULLY SUBMITTED:

Mary Moak,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	6		Attendance Roster
A.B. 407	C	1	Carol M. Stonefield	Work Session Document
A.B. 407	D	1	Senator James A. Settlemeyer	Conceptual Amendment