

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

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

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 9:06 a.m. on Tuesday, May 21, 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. [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 David R. Parks, Senatorial District No. 7
Senator Tick Segerblom, Senatorial District No. 3
Assemblyman Richard (Skip) Daly, Assembly District No. 31

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Gary Wilhelms
Steve Walker, Truckee Meadows Water Authority
Wes Henderson, Nevada League of Cities and Municipalities
Yolanda King, Clark County

Chair Spearman:

We will begin with a hearing on Senate Concurrent Resolution (S.C.R.) 8.

SENATE CONCURRENT RESOLUTION 8: Creates a subcommittee of the Legislative Commission to study the Nevada Legislature. (BDR R-407)

Senator Tick Segerblom (Senatorial District No. 3):

I have a presentation on S.C.R. 8 ([Exhibit C](#)). Senate Concurrent Resolution 8 is not a bill. As a resolution, it only has to be passed by both Houses of the Legislature. It does not go to the Governor, and it cannot be vetoed. It is a companion piece with Senate Joint Resolution 8, a bill you previously passed, which was the first step of a constitutional amendment to have annual Sessions of the Legislature. This resolution is based upon the process used in Oregon when that state went from biennial to annual sessions.

SENATE JOINT RESOLUTION 8 (1st Reprint): Proposes to amend the Nevada Constitution to revise provisions relating to the State Legislature. (BDR C-626)

Senate Concurrent Resolution 8 creates the Legislative Commission's Subcommittee on the Nevada Legislature, made up of nonincumbent Legislators. The Subcommittee will study the inner workings of the Legislature; how the Legislature is paid, how it operates and whether annual sessions are advisable. The Subcommittee would report back to the Legislative Commission before the next session. At that point, we would consider whether to pass for a second time the annual sessions constitutional amendment. It would dovetail into that, then lead into the 2016 general election.

Gary Wilhelms from Oregon—who chaired a similar commission when Oregon was in the process of adapting to annual sessions—will testify about how the committee members operated and what they learned that may be useful to Nevada. We have patterned a lot of Nevada's process on how Oregon made the transition. Oregon is the latest state to go from biennial to annual sessions.

Gary Wilhelms:

I read over your resolution. Even though you are organized a little differently, this might even be better. Your commission is set to be smaller than ours, which makes it able to operate more efficiently. It seems you are focused on four major items, the most important being annual sessions.

The Oregon commission was open to everybody, saying bring us all your ideas for legislative improvement. We received a lot of input and ideas. I do not know how you plan to solicit your suggestions but do not be disappointed if you do not get a lot from the general public. You will get a lot of suggestions from legislators and staff, lobbyists, agencies, local governments and commission members. It is difficult to sort through suggestions without offending anybody.

Oregon established five committees under our commission. We assigned all our commission members to a committee and operated like the legislature. We referred all received suggestions to the committees, and they reported back to the commission. The commission discussed, debated and voted on the suggestions. The successful ones made it into the commission's final report and into legislation which was considered by the next session of the legislature. It was well organized. Some committee meetings were a little chaotic because the members had to decide what to do with the wacko recommendations. The commission was successful in getting a lot of our recommendations adopted. It has taken time. The legislature is still considering recommendations, even though the commission was a few years ago.

Whether to have annual sessions was a big item in our final report. We did have a trial run. The legislature passed a separate piece of legislation that scheduled an annual session to see how it worked. A short session in an even-number year was scheduled. The legislature had to withstand criticism for the decision. Some of the legislators took up the cause and said they thought it was a violation of the state constitution. We got around that and had our trial. People felt it was successful in helping us better structure the whole legislative process. We were able to accomplish a lot of things because the legislature had that short session. Ultimately, Oregon Ballot Measure 71 was voted upon and adopted. Annual sessions are now a reality and working well.

There are some things Oregon did in addition to the annual session. The legislature passed a resolution in the odd-year session to establish all the dates for the legislature: the crossover date for legislation; the deadline for introduction; the deadline date for consideration of bills; and the target date for sine die. It was put in a resolution up front and voted on by the members. The resolution established the dates, then allowed leadership and staff to manage to those dates. People knew what to expect. When the deadlines came, leadership had the ability to fall back on what the legislators themselves had adopted. It helped the session work more efficiently. The schedule and annual sessions

have helped people step up and manage better. The whole thing has produced good results.

I would caution you to do a couple of things after the fact. I would not be worried about the resultant bill drafts. I would make firm recommendations, have a single committee deal with the recommendations and then allow the committee to draft the bills. We were in a situation where once the commission adopted the recommendations, we had to stand behind them. Some recommendations allowed to move forward were controversial; even though they received a majority vote by the commission, we knew they were not going to fly when they hit the legislature. We were stuck having to take the publicity, put them in the recommendations and then stand behind them, watching them go down in flames—and then feeling a little embarrassed. I would cut that off ahead of time, not be quite so democratic and let everything move forward just because of a majority vote. I would work a little harder to talk the commission out of voting on the things you knew pragmatically would not fly with the legislature. That is touchy. I do not know how you may deal with it in Nevada. It would make it cleaner and create a more defensible record when you get out in the press.

When you move forward with this—whether it is annual sessions, compensation, restructuring the legislature or the committee process—you need leadership support or at least neutrality. It would help if one of those leaders was a champion. If you do not have a leader as a champion, you need some legislative champions to get this done. You need leadership support. Prepare yourself for the public relations and publicity that you need, not only outside the legislative body and in the press, but also among your colleagues. One big fight between influential legislators over an issue like annual sessions can kill it. You have to be careful of that. Experience shows you need to pay attention to getting a champion and handling it right. Any little diversion in an issue as sensitive as annual sessions or, even more sensitive, legislator compensation could bury the issue, and then you are done for another 5 to 10 years. You are stuck with it the way it is. Those are my general comments.

Chair Spearman:

Mr. Wilhelms, what is your title and who are you representing?

Mr. Wilhelms:

I was a state representative in the Oregon legislature in the 1970s. I lobbied in Oregon for 17 years for the Bell System, retiring in 1996. I then went to work as staff in the legislature until April 2012. I was the Chief of Staff for the Speaker of the House for a couple of sessions and Chief of Staff for the Republican Leader in the House. I also worked as a Special Assistant to the Senate President for a couple of sessions. Retired is my current title.

Senator Segerblom:

To follow up on the proposal: a 15-member Subcommittee appointed by the Legislative Commission is comprised of members from the Assembly and Senate. The Legislative Commission is divided equally among the two parties. One member is selected by the Majority Leader of the Senate and one member is selected by the Minority Leader of the Senate. The Speaker of the Assembly and the Minority Leader of the Assembly each select one member. The 11 remaining members, who are not Legislators, are validated by the leadership. There are no sitting Legislators on the Subcommittee. The fiscal note for S.C.R. 8 is an estimated \$3,375. It will be well worth it.

Chair Spearman:

We will close the hearing on S.C.R. 8. We will open the hearing on Assembly Bill (A.B.) 150.

ASSEMBLY BILL 150 (1st Reprint): Enacts provisions relating to interim legislative committees. (BDR 17-739)

Assemblyman Richard (Skip) Daly (Assembly District No. 31):

Assembly Bill 150 is a response to A.B. No. 578 of the 76th Session, which set up interim and statutory committees in the Assembly and the Senate for the interim. The Governor vetoed the bill, saying it was too close to annual Legislative Sessions. Several duties have been conferred on the Legislative Commission. The Commission does not always get to all of those duties. It is not that they do not want to; it is they do not have time or the resources. Assembly Bill 150 would set up the Legislative Committee on Governmental Oversight and Accountability to help the Legislative Commission carry out some of its duties. The Legislative Commission would have control over the topics and related items. The structure of the Committee with five members from each House would get more people involved. The members would be divided among the parties and appointed by the Majority Leader and

Minority Leader. The Committee would assist with duties contained in *Nevada Revised Statutes* (NRS) 232B.010 to NRS 232B.100 and NRS 218E.175. I have been assured by Legal Counsel the Legislature has the right and necessarily needs to have the ability to have oversight over agencies.

The Legislature sets the policy. The agencies are established through legislation to carry out the policies believed to be in the best interest of the State. The Legislature also appropriates the money in order to fund the agencies we have established. What the Legislature does not have is an effective way to have oversight and accountability to these agencies. This bill will create a mechanism by which we can have that accountability. It goes to all levels of government.

Agencies have stated they already have city councils and county commissions as oversight. They are concerned the new Committee will interfere with land use and zoning decisions. The Committee would not be allowed to do that. The Legislature is not in session, so the Committee would not be able to make bills, but it would ask questions, investigate issues of concerns and get information in order to make adjustments to the policy if it is not being carried out. If the policy is being carried out, the Committee could determine how to make it more effective and efficient. That is what the Committee would oversee and do.

Senator Settlemeyer:

I am concerned about the concept of subpoena power. Why was this added within this section? To my knowledge, we have never had to subpoena anybody at the Legislature. Why does this need to exist?

Assemblyman Daly:

The Legislative Commission has subpoena power now. This bill is modeled after NRS 218E. The existing Legislative Committee on Education and the Legislative Committee on Health Care both have those exact sections, word for word, with subpoena power and such transferred to this bill. It is nothing new.

This Committee would have the same structure as the other two interim committees. Section 7, subsection 1 provides "to fulfill the objectives and duties," the Committee may evaluate "(a) Programs to enhance accountability in government; (b) Legislative measures regarding government oversight; (c) Methods of financing government agencies; and (d) Any other matters" Those first three things are in the language for the Committee on Education in NRS 218E.615. This statute states the Committee on Education may,

"evaluate, review and comment upon issues related to education within this State, including, but not limited to: programs to enhance accountability in education;" we will use the word "government" here; "Legislative measures regarding education;" we use "government" here; "The progress made by this State, the school districts ...;" "Methods of financing public education" All these things were brought out of existing statutes.

Assembly Bill 150 would provide for a separate Committee to look at legislative oversight and accountability of the agencies and subdivisions of government that we oversee. The Legislature has set policies for the agencies, created the agencies and funded the agencies. Now, we should have oversight.

Senator Settlemeyer:

The Legislature has oversight over everyone including all the counties and cities because we created them by law. I am worried we are creating a situation where the agencies spend their entire off-legislative session jumping through hoops.

Assemblyman Daly:

I doubt that would happen. During the Assembly hearing, some of the agencies said this will be a new review for a decision already in place. That is not the Committee's jurisdiction. If the Committee had an issue over a policy being carried out in accordance with the statutes, the Committee could talk to the agency about that. The decision the agency made could not be brought in front of the Committee. If so, people should rightfully complain. I do not think that will happen, nor is it the intent.

Senator Manendo:

The Legislature used subpoena power during the impeachment proceedings of State Controller Kathy Augustine. It is rare, but the Legislature has used it in the past. I just wanted to put that on the record.

Chair Spearman:

Melissa Mundy, I think what Assemblyman Daly said is in NRS, but I am not sure where. Can you speak to that, please?

Melissa Mundy (Counsel):

Nevada Revised Statute 218E.185 states, "The Legislative Commission has the authority to (a) Administer oaths. (b) Cause the deposition of witnesses ... (c) Issue subpoenas"

Chair Spearman:

Earlier in the Session, Assemblywoman Teresa Benitez-Thompson presented A.B. 350, which spoke to issues that when the Legislature enacts legislation, we have no way of determining its effectiveness and whether people are actually acting in compliance.

ASSEMBLY BILL 350: Revises provisions relating to the submission of reports to the Legislature. (BDR 17-794)

Carol M. Stonefield (Policy Analyst):

Assembly Bill 350 has been enrolled and delivered to the Governor. It provides that any provision of State legislation which adds or revises a requirement to submit a report must expire or be accompanied by a statement justifying the continued need for the requirement. The bill requires the Legislative Commission to review the requirements in State legislation for submitting reports, to prepare a report of its findings and recommendations regarding the requirements and to transmit the report to the Legislature. Part of Assemblywoman Benitez-Thompson's testimony was about the Legislature often requiring reports to the Legislature regarding various programs the legislation enacted. Sometimes those reports are not filed, and there is not always a means to track them or follow up with the agencies that fail to provide information as requested.

Assemblyman Daly:

I am familiar with A.B. 350 that has a different purpose for a different measure. That bill for review of the statutory reports agencies need to submit checks whether: they are being turned in; anybody still reads them; and they are still needed. This Committee would not interfere with that. The review of the reports should be done, which is similar to the duties of the Sunset Subcommittee of the Legislative Commission.

We are just looking at boards and commissions to see whether they still perform and if they can be streamlined. I know we have had several bills this Session

over that, such as the Nevada Athletic Commission, the Nevada State Funeral Board and some others things that have come forward.

Chair Spearman:

Assembly Bill 150 seems to be a companion piece to A.B. 350. During her testimony, Assemblywoman Benitez-Thompson said Legislators have gone back and looked at things that were to have regulations promulgated, and after several years, nothing has happened. As I understand, if we enact legislation and have this particular subcommittee, then there should be oversight to see if it happened. You are looking at it from a macro level, not a micro level; looking at the broad picture, not getting down into the weeds.

Assemblyman Daly:

It would be where it takes you once you start that examination. We also have the Legislative Commission's Audit Subcommittee. The Audit Division audits State agencies on a cycle and reports back to the Audit Subcommittee. The reports are binding and give direction to the agencies. Sometimes the agencies say, okay, we are going to do this. But until you do the auditing again, are they going to do it? I have read things in those Audit Subcommittee minutes where I shake my head and ask, why and how? How come you are not doing this? We never really get those answers on those audit reports. We never know whether there was any follow-up.

This Subcommittee could then ask the agency, why? Is it a matter of money? Is it a matter of policy? Is it you do not have the regulations? Is there some restriction in the law? Is there some legislation you need in order to be effective at the policy we want to have carried out?

I do not think that would be limited to just the State agencies. We have all the political subdivisions in the State that every 2 years ... this would just be an interim function.

Assembly Bill 150 is in response to the structure vetoed by the Governor. Assembly Bill No. 578 of the 76th Session had all these subcommittees doing the same thing. This bill sets up this one Subcommittee. The structure allows more people to be involved in taking pressure off the Legislative Commission. The Legislative Commission would have oversight of this Subcommittee and all other committees below it.

Senator Settlemeyer:

I looked up that section in NRS and realize now we do have subpoena powers all throughout that are hardly ever used.

I am worried that the bill seems broad. I understand the concept of being able to talk to a local government and say we need to see this information when it is specifically tailored. Section 7, subsection 1 states "evaluate, review and comment upon issues related to governmental agencies, including, but not limited to:" I am worried the concept is so broad that someone could conduct a fishing expedition. If someone in a position of power did not agree with something the local government did, it could be used as a fishing expedition to punish the local entity.

Assemblyman Daly:

Nevada Revised Statute 218E.615 describes the general duties for the Legislative Education Committee, also used for the Health Committee. I will read it to you: "1. The Committee may: (a) "Evaluate, review and comment upon issues related to education within this State, including, but not limited to:" And there is a list. I left out the items specified in NRS 218E.615 under the Education Committee related to implementing the No Child Left Behind Act. They do not belong in A.B. 150. This is the language in existence. I was not creating anything new or being overly broad. I figured that is a good starting point.

Chair Spearman:

Section 6 addresses Senator Settlemeyer's concern about the day after session ends. Section 6, subsection 1 states "Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than November 1 of each odd-numbered year and not later than August 31 of the following even-numbered year" Here are some parameters with respect to time and, of course, there are always exceptions.

Assemblyman Daly:

That language is imported to structure this Committee the same way as all the interim committees with a time frame for when you start and end. A budget is in place. It is not an open-ended issue. You only get to so many issues. In the course of the interim, various issues are brought to your attention. You need more information on those issues that may need some further investigation; this Committee can do those things. You cannot have this ongoing deal that goes

outside the parameters of existing budgets. It is structured exactly like the other interim committees. If you go outside of those dates, you have to go to the Interim Finance Committee to get authorization to expend that money.

Senator Manendo:

Time and time again the Legislature passes laws, the session ends and agencies or whoever ignore the will of the Legislature. This is some kind of hammer. Walk me through how this bill would work. A constituent comes to you and says you passed a law. I appreciate all your hard work. The Legislature passed the bill, the Governor signed the bill into law and now whatever agency is not following the law. How does this Committee play into that?

Assemblyman Daly:

You hear from a constituent about an enacted law not being administered well. We all hear about issues and problems. Some rise to levels where you can say, I will make some calls, such as the problem with off-road vehicle stickers that cannot fit on the fender of a motorcycle very well. We were able to fix that. You may have a bigger issue with an agency that needs a little more in-depth study.

You have time frames, you have limits, and there is only so much you can do. It is like the Sunset Subcommittee. Members were supposed to review up to 20 boards; in legislation this time, Legislators cut that down to 10 because it was too many. You are limited on things like that. The people on this Committee and the Legislative Commission pick issues of importance, focus on the larger issues that need to be addressed and look at more investigations.

There is not a mechanism other than the Legislative Commission, which if you serve on it, you know you get stacks of paper to review regulations. I believe members meet quarterly; no offense against the Legislative Commission, it does a great job. There are good people on the Commission. I have been there myself, but there is too much for the members to do to be effective at other duties they have to perform.

Senator Manendo:

I want to get the vision in my head of how this Committee will work. Not one session goes by during the interim that I do not hear from a constituent who says, "You passed a good piece of legislation and it is like it does not exist; somebody is totally ignoring it." We may make a call, check with our legal staff,

check with the Research Division. We try to get help. We try to do it ourselves. It just does not move. I think people take the process as a joke in a lot of instances. This is some type of hammer we can use to make sure the law is taken seriously by the people it affects.

Assemblyman Daly:

I do not like the term hammer. It is about oversight.

In my regular job, I go into a meeting, negotiate with contractors and say, "This is our intent. This is what we want to have happen." We all agree this is the intent. We put words on a piece of paper that say this is the intent, and this is what this means. Then after the fact, we are out of session and somebody who was not at the meeting looks at the words and says, "That is not what it means at all, and this is the way I am going to do it." We need to be able to go back and investigate. We can make those adjustments. I can say I was at the meeting and that is the intent, but that is not what the words say.

This applies where you say you passed a piece of legislation and we all know what it meant; then we come back and everyone says no, that is not what it meant. We need to reinvestigate and see how we missed the mark. Why is someone looking at the legislation that way and how do we get back to the intent?

Steve Walker (Truckee Meadows Water Authority):

Truckee Meadows Water Authority already has oversight within the same chapter under the Legislative Committee on Public Lands and is opposed to A.B. 150. We do not need to report to two committees that have oversight over us.

Wes Henderson (Nevada League of Cities and Municipalities):

The League and our members believe in an open, transparent and accountable government. We recognize the duty of a Legislator to provide oversight to local governments. We feel this oversight is already in place. This overly broad bill is not necessary. There will be added cost to local governments if they are brought before this Committee and required to produce books and other records as required.

Senator David R. Parks (Senatorial District No. 7):

I oppose a portion of Assembly Bill 150, specifically sections 10 through 12. Assembly Bill 150 appears to repeal the sections of statute that establish the Legislative Committee on High-Level Radioactive Waste. I am currently the Chair of the Committee, and I have had no discussion relative to this issue. I have had a number of phone calls, discussions with Richard H. Bryan, Chair of the Nevada Commission on Nuclear Projects, and correspondence with Robert J. Halstead, Executive Director of the Agency for Nuclear Projects. The proposal in the bill seeks to move some of the duties of the Legislative Committee on High-Level Radioactive Waste to the Legislative Committee on Public Lands. In the Assembly hearing on the bill, there was no discussion of that move in the initial testimony and only a slight reference to it before a vote was taken to pass the bill out of Committee.

My passion is and will continue to be Nevada's need to be strong relative to its position to high-level radioactive waste. Having served on this Committee which has periodically responded to moves upon the State to transfer waste shipments to Nevada, I request if you wish to carry forward with this bill that you amend it by removing the portion in sections 10 through 12 and leaving the Legislative Committee on High-Level Radioactive Waste intact. There was never any justification or reason provided for why this interim committee would be disbanded. The Committee has performed an important role dealing with nuclear projects in Nevada. Even though it appears that the Yucca Mountain Project will not go forward, there still are significant issues about which we need to be ever vigilant as we proceed forward.

Yolanda King (Clark County):

For the record, we oppose A.B. 150. Citizens have many opportunities to interact with our Board of County Commissioners with regard to complaints they have or issues with the law and how they are played out within the government. The County Commission meets at least twice a month, and members of the public may speak if there are any issues. Our County Commissioners are available, and our citizens have contact with our Commissioners on an ongoing basis.

Clark County is subject to internal and external audits, with reviews of statutes to determine whether we are complying as set forth by the Legislature. There is ample transparency with our government. We oppose A.B. 150 because we feel we have that oversight already.

Chair Spearman:

Assemblyman Daly, Senator Parks stated that sections 10 through 12 do not comport with the Legislative Committee on High-Level Radioactive Waste. Would you be willing to work with him on an amendment?

Assemblyman Daly:

I did not hear from Mr. Bryan. I did not intend to get rid of oversight for the Legislative Committee on High-Level Nuclear Waste. When we moved the oversight to the Committee for Public Lands, it was to streamline government to avoid unnecessary costs associated with this Committee going forward. If it is the pleasure of this Committee to reinstate the Legislative Committee on High-Level Radioactive Waste, I have no opposition.

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Chair Spearman:

We will close our hearing on A.B. 150. We have completed the business of this Committee on Legislative Operations and Elections at 9:58 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	3		Attendance Roster
S.C.R. 8	C	8	Senator Tick Segerblom	Presentation