

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

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

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 8:29 a.m. on Monday, June 3, 2013, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Mark A. Manendo, Vice Chair
Senator Kelvin Atkinson
Senator Barbara K. Cegavske
Senator James A. Settelmeyer

STAFF MEMBERS PRESENT:

Carol M. Stonefield, Policy Analyst
Kevin Powers, Chief Litigation Counsel
Mary Moak, Committee Secretary

Chair Spearman:

I call this hearing of the Committee on Legislative Operations and Elections to order. We are hearing [Assembly Bill \(A.B.\) 509](#).

[ASSEMBLY BILL 509](#): Revises provisions relating to the Legislative Department of the State Government. (BDR 17-570)

Kevin Powers (Chief Litigation Counsel):

Under *Nevada Revised Statute* (NRS) 218F.150, members of the Legislative Counsel Bureau (LCB) staff cannot urge or oppose a piece of legislation. That statute contains an exception when that legislation affects the performance of the LCB's duties in relation to the Legislative Department of the State Government.

The bill before you is [A.B. 509](#). At the end of Session, the LCB introduces a bill requested through the Legislative Commission to deal with matters that have

arisen over the interim which affect the functioning and the operation of the Legislative Department of the State Government. Assembly Bill 509 has two main components: one dealing with the new constitutional power of the members of the Legislature to call a special session, and the other dealing with the legislative investigative process.

Prior to the 2012 general election, only the Governor had express power under the Nevada Constitution to call a special session. Accordingly, all the statutes referring to a special session dealt only with the Governor's power to call that special session. During the 2012 general election, voters approved the constitutional amendment that grants the Legislature the power to convene a special session. Article 4, section 2A of the Nevada Constitution provides if two-thirds of each House of the Legislature submits subsequently similar petitions to the Office of the Secretary of State signed by the requisite number of members, then the Secretary provides notice that the Legislature will be convening a special session. This legislation goes through statutes in NRS referring to a special session and adds reference to the Legislature's new powers to convene a special session.

The next sections in the bill deal with legislative investigative powers. During this past Session, the Select Committee on the Assembly engaged in legislation under the powers of Article 4, section 6 to investigate matters dealing with its own members, the expulsion proceeding. During the proceeding, the Select Committee on the Assembly needed to issue legislative subpoenas. The LCB discovered many of the statutes dealing with legislative subpoenas distributed throughout NRS had conflicting and inconsistent language. Because of that and some archaic language, members of the Executive Branch and the local governments were not sure of the legal force and effect of the legislative subpoena.

Assembly Bill 509 develops provisions modeled on existing law. The provisions in sections 6 to 13 deal with legislative investigative powers for interim committees. Sections 14 through 21 are the provisions dealing with legislative investigative powers for the session committees. The investigative power authority will all be located in NRS 218E for both the session and interim committees. The provisions will make clear a legislative subpoena has the same legal force and effect as the subpoena issued by a district court. That flows from constitutional powers granted to the Legislature to conduct investigations into anything related to possible future legislative action. A wealth of caselaw,

both at the federal and State levels, deals with the legislative powers to investigate matters related to future legislative action.

The remaining provisions of the bill specify these powers belong to each of the interim and statutory legislative committees and remove redundant and repetitive provisions from those NRS sections.

Senator Settlemeyer:

The legislative subpoena has the same powers as a judicial subpoena. In that respect, are the same defenses available? I want to make sure that is clear for the legislative intent.

Mr. Powers:

Section 21, subsection 1 of A.B. 509 provides the standard that a person is required to comply with a legislative subpoena unless that person has a reason recognized by law. That captures what Senator Settlemeyer mentioned. Those reasons recognized by law that allow a person to resist the legislative subpoena would include the Fifth Amendment privilege against self-incrimination, the attorney-client privilege and the doctor-patient privilege. As the federal government enjoys a certain level of sovereign immunity, that federal officer and employee could claim such a reason recognized by law to resist the legislative subpoena.

Yes, Senator Settlemeyer, this legislation specifically recognizes defenses to resisting a subpoena issued by the legislative body as those same defenses available if a subpoena would be issued by a court or an administrative agency.

To conclude, LCB urges your support. This bill reinforces important powers of the Legislative Department of the State Government and will help us in performing our duties in assisting the Legislature.

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Chair Spearman:

We will close the hearing on A.B. 509.

SENATOR MANENDO MOVED TO DO PASS A.B. 509.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Spearman:

We will adjourn this final hearing of the Committee on Legislative Operations and Elections at 8:43 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	1		Attendance Roster