

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

**Seventy-Seventh Session
April 9, 2013**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 8:04 a.m. on Tuesday, April 9, 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 Debbie Smith, Senatorial District No. 13
Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1

STAFF MEMBERS PRESENT:

Carol M. Stonefield, Policy Analyst
Melissa Mundy, Counsel
Kaci Kerfeld, Committee Secretary

OTHERS PRESENT:

Scott F. Gilles, Deputy for Elections, Office of the Secretary of State
Alan Glover, Clerk/Recorder, Carson City
Cadence Matijevich, City of Reno

Chair Spearman:

I will call this meeting to order and open the hearing on Senate Bill (S.B.) 239.

SENATE BILL 239: Revises provisions relating to elections. (BDR 24-996)

Senator James A. Settelmeyer, Senatorial District No. 17:

Senate Bill 239 was created based on discussions I have had with other individuals and from personal experience. My mother and father passed away recently, both during election cycles. It was amazing to me that they continued to get information about voting not only from candidates but also the county registrar even though my parents had been deceased for at least 6 months prior to the elections. The county clerk's office employees stated that they did not always have the ability to remove people from the rolls, even if they knew they were deceased. That is troubling. When your parents are deceased, you have a constant reminder that they have passed. Having the government continue to send letters addressed to them is also a reminder. It is not proper in the memory of those individuals who have passed, or for other family members, to continue to do mailings to deceased individuals.

Section 1 of the bill would allow the county clerks to remove individuals from the voter rolls who they know are deceased. The other change, in section 3, would allow the Secretary of State to obtain a Social Security Death Index to eliminate deceased individuals from the rolls.

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

The Secretary of State's Office supports this bill. Our office gets a list of individuals who have passed away from the State Registrar of Vital Records, Department of Health and Human Services. The list is not complete because we only receive notification of the people who die in the State of Nevada. Our Office does not get the vital statistics list for people on our rolls who die in other states. Senate Bill 239 would give us access to the data from all states of deceased individuals who are Nevada voters, which is valuable data we could use. Once we give notice that a person has shown up on the statewide voter registration database, the clerk is given notice but must independently verify that the person has passed away. It is not a matter of getting the data and immediately cancelling registration. It may be that in some cases you see someone on the list who you know has passed away. That is considered independent verification.

Section 3 requires the Secretary of State's Office to obtain the data from the Social Security Administration (SSA) and Social Security Death Index (SSDI) and then give written notice to the appropriate county clerk. It needs to be clear as

to what the written notification entails. Our Office would prefer the system we already have in place. We receive data and update the statewide voter registration database. An automatic report is generated to the counties on a nightly basis. That seems more manageable than receiving data and writing a separate letter to every county clerk listing the deceased registered voters. The process we currently have in place works with the Vital Records list and basically generates a report to each county with the people who appeared to have passed away. That is how we would prefer to give the written notice as called for in this bill. If the automatic generation of the report does not constitute written notice, we would like to revise it so we can use our process.

We did submit a very small fiscal note for this. The bill does not specify how often we are to obtain this data. Our fiscal note is very light because we assumed we would only be obtaining the information from the SSA twice during an election cycle; once before the primary and once before the general election. However, it does not say that in the bill. If we are asked to do this monthly or weekly, the fiscal note would be much more because the federal agency requires you to set up a file transfer protocol site. There is cost involved in receiving information on an automatic digital basis. The price we have in the fiscal note is based on getting a disk twice a year which our Office would use in the same way. It does not specify when or how often in the bill, but that is what our fiscal note entails.

Nevada shares membership in the Electronic Registration Information Center (ERIC) project by the Pew Charitable Trusts Pew Center on the States, a statewide data matching group with seven other states. As part of that process, ERIC uses the SSA data. Essentially, we already pay for it with our membership through ERIC. Those reports will likely only be used once in an election cycle. Once we get reports from ERIC, that information would be passed on to the county clerks. I do not know that this would be entirely duplicative. That depends on how often the bill intends for us to receive this data from the SSDI. If it is monthly or weekly, this bill would require us to obtain that data more often than our current participation in the ERIC project.

Chair Spearman:

How often should this be done in our efforts to make sure that people who are no longer here do not vote? How do we make sure there is an equal protection for those who might be here and there was a mistake or misunderstanding? As Mark Twain said, "The reports of my death are greatly exaggerated."

Mr. Gilles:

We think this should be done once before the primary and once before the general election in both the odd and even years to cover the media cycles. This would need to be done far enough before elections to make sure the clerks' rolls are clean well in advance and you are not sending sample ballots to people who may have passed away and other roll administration issues. This should be done at least twice a year, well in advance of the election dates.

Chair Spearman:

Do you have protocols in place in the event of an error where someone has been accidentally deleted?

Mr. Gilles:

No, the Secretary of State's Office does not have those protocols in place, but the county clerks' offices do.

Senator Manendo:

If someone were to send you a death certificate, what would be the reason the decedent could not be removed from the list?

Mr. Gilles:

If our Office or the clerks' offices received a death certificate, staff would cancel the person's registration immediately. A list is different because it is from a data source that says these individuals appear to have passed away. One issue with that data is that we only get the name and date of birth. In the larger counties, there may be duplicate names on the list with the same date of birth. In this case, additional verification needs to be completed by the clerk to make sure the right person's registration is cancelled.

Senator Cegavske:

I am wondering about nursing homes and patients who have Alzheimer's disease. My mother has that and lives in Minnesota. In Minnesota, we have asked to stop having information sent to the home because she would not be able to fill out the form herself. Do we allow anything like that here?

Mr. Gilles:

I will have to defer to Alan Glover on that question. I am not sure how the request to no longer send information would be handled by a clerk's office. There are specific instances where a court can adjudicate you mentally

incompetent and unable to vote. If it is a situation that has not risen to the level of the court and you are only asking for the mail to not be sent there, I am not sure how the clerk's office would handle a situation like that.

Senator Cegavske:

I am curious about the process with people with dementia. I know there have been homes where people filled out forms for other people and sent them in. We did not want that to happen with my mother, so we asked to not have anything else sent to her.

Alan Glover (Clerk/Recorder, Carson City):

We support this bill. Any additional information we can get helps us. Carson City may be more diligent than other jurisdictions on this because we clip obituaries every morning and get quarterly reports from Vital Records. However, if a couple goes to Arizona for the winter and they die while they are there, they would not show up on the Vital Record's list and there may not be obituaries. Very few people are still paying to have obituaries put in the newspapers, so this would help.

A couple of elections ago, there were a father and son with the same name. One passed away, so we removed the father, but it was actually the son who had died. We made the assumption, which we should not have, that the 80-year-old had died instead of the 40-year-old. The father came in to vote, and we did a certificate of correction to let him vote. He was there and alive and everything matched. I do not worry too much about that. If someone living shows up to vote, we can easily put him or her back on the rolls and let him or her vote.

The SSDI is a public record. Name, date of birth and social security number are needed to verify the SSDI. It does not work for large groups because you need specific information. Our office also uses <http://www.Ancestry.com> to check on an individual basis. Part of our process when we get lists from SSDI that do not match anything else is to use Ancestry.com to check and see. It does not do much good to send people a letter asking them if they are deceased, but we will double-check. When you get notification from social security or Vital Records, it is clear that the person is deceased. This bill will help us quite a bit.

After a previous hearing, a convalescent center called us asking for a stack of voter registration applications which raised red flags. This is exactly what can happen in this situation. People can register other people to vote, and we do not know if they are truly competent to vote. The way the statute reads, people are competent unless the court adjudicates them incompetent. Our process in this situation is to send a field deputy registrar to the convalescent center. If the person is in a coma, we would not register him or her. We are also the Public Guardian for Carson City. If people ask about the election and a sample or absentee ballot, we give it to them. With a lot of people, we do not bring the issue up, we just let it slide as a practical matter. If convalescent center residents are interested at all, then we make sure they get absentee ballots. Sometimes we will send someone from our office to help them vote instead of someone at the institution, who tends to help people vote for what is best for the corporation that owns the institution. We support this bill and think it will help us. As far as the time frame, twice a year is sufficient.

Chair Spearman:

In the event that the law is silent on whether the person is or is not mentally competent, what provisions might we add so that those who may not be totally aware are not coerced?

Mr. Glover:

I am not sure if you can do that legislatively. It takes effort from our offices to look into this. We always err on the side of caution if people want to vote. A lot of times people only have one candidate who they are interested in and have no interest in the other questions. We do everything we can on a personal basis to make sure they get to vote. I am not sure there is a way to legislate this area. It is a tough issue to handle. We see couples—one or the other has Alzheimer's—and the spouses are voting ballots for the demented spouses.

Chair Spearman:

Absent any legislative action, are there protocols in place through the Secretary of State's Office to ensure that someone with full mental capacity can vote? Just because a person is an octogenarian does not mean he or she does not have full mental capacity; someone who is in his or her 60s may not. How do we make sure, from an administrative standpoint, that we are making the right choices? How can it be uniform because in Carson City it may be easier to do than in Clark County?

Mr. Gilles:

The law is specific about what is required for an individual to lose the right to vote because of these types of mental issues. There is a bill this Session attempting to move that standard a little further, requiring a written order from the court that specifically says certain things before the right to vote is actually removed. We are talking about trying to restrict or control the behavior of others in their efforts to register people and vote their ballots. I would have to do research as to how our current third-party registration restrictions, laws and penalties would treat the type of situation Senator Cegavske mentioned. I believe the laws in place would be enough to prosecute an individual who did something like she suggested. The question is how would we find out that occurred? It is hard to create legislation to prevent this. We can make the penalties harsher and the requirements for third-party registrations more strict in order to widen our net for these types of individuals, but I am not sure how we would go about legislating to prevent this problem altogether.

Melissa Mundy (Counsel):

In section 1, subsection 3 of S.B. 239 says "if the insanity or mental incompetence of the person registered is legally established," then that is one of the situations in which the county clerk shall cancel the registration.

Senator Settlemeyer:

The original concept in discussion with Mr. Gilles was the Secretary of State acquiring the SSDI information and having the flexibility to determine, based upon his funds, how often he wishes to do this. If he wanted to and had the resources to do this daily, he could. If he does not have the resources, then it can be done once a year or not at all. The idea is to allow him the flexibility. In discussion with Mr. Gilles, we do not believe an amendment is necessary.

I appreciate the concerns of the Committee with the discussion of incompetency, but that is not what I was trying to address in this bill. I was only focusing on the situation where an individual has passed away and continued to be mailed information. To further illustrate this problem, I will give you an example from another state. My grandfather lived in Texas and continued to be on the voter rolls for 12 election cycles after he passed away. My mother was frustrated so she went in and told them he had passed away. They asked who she was, and she said she was his daughter. They said they did not care. She provided them his obituary and they said they still did not care. She returned with the death certificate and was asked why she cared if he

continued to vote. That situation is not happening in Nevada, to my belief. But I set forth a situation that will help make sure that individuals are not considered to be voting or be mailed information if they have passed away. It was emotional for me to see information in the mail after they passed. That is specifically what the bill is meant to address. It is not dealing with incompetency. It could be very dangerous to ever try to take someone's right to vote away.

SENATOR CEGAVSKE MOVED TO DO PASS S.B. 239.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Chair Spearman:

I will now open the hearing on Senate Bill 405.

SENATE BILL 405: Revises provisions relating to the submission of reports to the Director of the Legislative Counsel Bureau and certain other persons. (BDR 17-541)

Senator Debbie Smith, Senatorial District No. 13:

Speaker Marilyn Kirkpatrick and I have been on a mission during the last few sessions looking at statute and cleaning up places that can be more efficient and have more transparency. Senate Bill 405 sets out a process for going through the statutes and eliminating reports that are considered obsolete and redundant. Reports may no longer provide current information. Many reports people do not even submit anymore, even though they are still required in the statute. Many of the reports are now available online. It seems unnecessary for an actual report to be produced and submitted to the Legislature. Some of these reports have been going on for years without ever having a sunset.

First, we and our staff reviewed all the reports out there. We picked out those that would be eliminated. The second piece of the bill is to ask the Legislative Counsel Bureau Director to go through the reports in the interim and make a request to the Legislative Commission to recommend a bill draft to the next Legislative Session to eliminate future reports from our list. In a basic fashion,

that is what this bill does. It sets out a current list of reports that we believe are redundant and no longer necessary and outlines a process for the future.

Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1:

We talk about being efficient and how we can get the right information in our reports. We are still getting 15-year-old reports that are obsolete to any of the laws in place today. We ask a lot of different agencies—local agencies or state agencies—to submit reports. We use them for a couple of sessions and then do nothing with them; but the statute still requires them to be submitted. There is a cost and a time commitment for the reports. We also found reports that nobody ever submitted that should have been submitted. We have so many reports that we are not even sure what they are. This is a step toward being more efficient and getting the correct information for what we need based on the laws we implement. It is important to keep going this way. The Legislative Committee on Education did this as well.

Cadence Matijevich (City of Reno):

We support this bill. When a new bill comes forward with a reporting requirement, local governments will often say that it will require time and effort. We appreciate the ability to discontinue some of them to make room for the new ones.

Chair Spearman:

I recently introduced Senate Bill 236, which would require agencies to start putting their forms online. The money we save from using innovative technology can be put back into the budget where it needs to be, such as education, roads and infrastructure.

SENATE BILL 236: Revises provisions governing state agencies. (BDR 19-769)

SENATOR MANENDO MOVED TO DO PASS S.B. 405.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Chair Spearman:

I will now open the work session on Senate Bill 325.

SENATE BILL 325: Revises provisions relating to elections. (BDR 24-953)

Carol M. Stonefield (Policy Analyst):

As a member of the staff, I will neither advocate nor oppose any of the bills under consideration. Senate Bill 325 was sponsored by Senator Spearman and heard in this Committee on March 28. I have provided a work session document ([Exhibit C](#)).

Senator Manendo:

Senator Spearman, do you have any comments on the proposed amendment?

Senator Pat Spearman, Senatorial District No. 1:

No. What Mr. Lomax is attempting to do is the same thing that S.B. 405 was designed to do. As long as we can bring everything into compliance and comport with existing statute, I am agreeable.

Senator Settelmeyer:

I spoke to you about amending the bill so that if the issue in front of the voters raises or lowers taxes or fees, it should say so in the introductory paragraph. We have had issues like this in northern Nevada. For example, a question went to the voters asking whether we should improve the quality of life in the Truckee Meadows by going to the Legislature and seeking additional funding. Buried on page 7 is how they are planning to do it. Are you amenable to an amendment that includes whether something raises or lowers the taxes within the introductory paragraph?

Senator Spearman:

Sure.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 325.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Senator Manendo:

Next, I will open the work session on Senate Bill 457.

SENATE BILL 457: Revises provisions relating to certain city elections. (BDR S-706)

Ms. Stonefield:

Senate Bill 457 was brought to the Committee by Senator Spearman and heard on April 2. I have provided a work session document ([Exhibit D](#)).

Senator Spearman:

I expressed to all of the cities that have been named my appreciation for the things they are doing to amend the bill. However, if we exempt everyone, there would be no need for the bill. The purpose is to make sure that we bring all of the incorporated cities into the same structure.

Senator Settlemeyer:

Have you accepted the concept of the City of Henderson placing this before the vote of the people or was that just a proposed amendment?

Senator Spearman:

That was the City's proposed amendment.

Senator Settlemeyer:

Are you accepting that amendment?

Senator Spearman:

No, I am not.

Senator Settlemeyer:

I used to represent Washoe County, and I agree that its ballot language could be questionable, yet not to the degree that it passed. I have a problem voting to change the will of the individuals who voted. People have the right to vote on things. We are going to put other issues to the ballot this year to ask individuals

whether they have changed their minds. That is acceptable, but I am against the concept of doing it so soon and taking away what people voted for.

Senator Spearman:

Are you referring to Reno?

Senator Settelmeyer:

Yes.

Senator Spearman:

When I traveled back to Las Vegas this weekend, I sat next to two people from Reno. I asked them about the ward voting ballot question last year. One had no idea what the question was asking. He said he looked at and studied the question and that people kept talking to him about it, but he had no idea. The other person agreed, and also had no idea what she was voting for. I also asked what they think about the current system. One thought it should be ward voting, and he happened to live in one of the more affluent areas. He stated that he did not think everybody is properly represented. I asked the other person what she thought about it, and she said the same thing. She said if it had been written another way, she and her neighbors would have voted a different way. I am not convinced that the language on the ballot in Reno actually supported the intent of the legislation or the intent of the initiative, which was to ask people if they wanted ward voting or not. It did not say that. We went back several years and looked at elections, and the pattern is very clear that that those more affluent wards are electing the people. The other people are not participating for one reason or another. If we do it as suggested in the bill, we will have better civic participation. That is what this is designed to do.

Senator Settelmeyer:

I would be okay with the Legislature coming up with what we feel is the appropriate ballot language and putting it to every individual situation. However, forcing it down voters' throats and saying that we do this because the wording used in the past has not been beneficial to the spirit of the intent of the concept... I have no problem supporting a concept of doing that to all municipalities. I agree that the Reno language was potentially confusing but not to the degree that it passed with the overwhelming margin. Even though I no longer represent Washoe County or Carson City, I still look out for their interests. I will be opposing this bill.

Senator Spearman:

We have before us the same situation as in North Las Vegas. Senator Atkinson told us about that struggle. This is not designed to disenfranchise, it is designed to ensure that we have greater civic participation. The numbers do not lie. The numbers say clearly that those who are in minority or economically disenfranchised parts of the city are not the ones electing the people who represent them. This is not designed to ignore or shove down the throats of the voters. It is designed to do this in a manner so that when you vote, you vote in the ward for the general election. It is designed to increase civic participation, not the opposite.

Senator Atkinson:

Would it be on the ballot for the primary and general election voting?

Senator Spearman:

Yes, and in all wards.

Senator Cegavske:

I will be voting no for the reasons that have been stated. I believe this needs to go to the vote of the people. North Las Vegas was a good example where it worked. People need to have the opportunity to say yes or no.

SENATOR ATKINSON MOVED TO DO PASS S.B. 457.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS CEGAVSKE AND SETTELMAYER VOTED NO.)

* * * * *

Senate Committee on Legislative Operations and Elections
April 9, 2013
Page 14

Chair Spearman:

This meeting is adjourned at 8:54 a.m.

RESPECTFULLY SUBMITTED:

Kaci Kerfeld,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	2		Attendance Roster
S.B. 325	C	8	Carol M. Stonefield	Work Session Document
S.B. 457	D	2	Carol M. Stonefield	Work Session Document