

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

**Seventy-Eighth Session
April 6, 2015**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Patricia Farley at 3:36 p.m. on Monday, April 6, 2015, 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 Patricia Farley, Chair
Senator James A. Settelmeyer, Vice Chair
Senator Greg Brower
Senator Kelvin Atkinson
Senator Tick Segerblom

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Kevin Powers, Legislative Counsel
Linda Hiller, Committee Secretary

OTHERS PRESENT:

Brett Kandt, Special Assistant Attorney General, Office of the Attorney General
Lynn Chapman, Washoe County Chair, Independent American Party
Vanessa Spinazola, American Civil Liberties Union of Nevada
Howard Watts III
Alan Glover, Office of the Secretary of State

Chair Farley:

I will bring the meeting of the Senate Committee on Legislative Operations and Elections to order. We are not going to hear Senate Bill (S.B.) 433 or S.B. 436 today; we are moving those two bills to Wednesday, April 8. We start with work session first. I will open with S.B. 274.

SENATE BILL 274: Enacts provisions governing the State's delegates to any federal constitutional conventions. (BDR 24-600)

Michael Stewart (Policy Analyst):

This bill sets in statute the procedures by which delegates are appointed to constitutional conventions called pursuant to Article V of the United States Constitution. There was one amendment offered by the sponsor of the bill, Senator Settelmeyer, to remove the provisions in section 12, subsection 4, that prohibit a registered lobbyist from serving as a delegate or alternate delegate to an Article V constitutional convention. I have submitted a work session document that also includes the amendment ([Exhibit C](#)).

Senator Atkinson:

Does this bill take the authority away from political parties to appoint their own delegates?

Senator Settelmeyer:

There are two ways a constitutional convention can be called—by the U.S. Congress or by state legislatures. With a constitutional convention that is called by Congress, we as a State would not have much vote or control. However, if a constitutional convention is called by the states, the state legislatures determine the rules.

With this bill, I want to make sure that any delegates of ours who get sent to a constitutional convention are selected by a procedure that prevents them from going rogue. That was the intent of this bill. It has nothing to do with political parties. The selection of delegates now is done through the State Legislature. This bill would allow the Legislative Commission to participate in that selection rather than call a special session to pick delegates if the Legislature is not in session.

Senator Atkinson:

Can you clarify the amendment? It seems to say that if you are elected or appointed to an office, you cannot serve as a delegate.

Senator Settelmeyer:

It was never my opinion that we should need to eliminate lobbyists from being able to be delegates. We have a lot of volunteer lobbyists who are politically

active. This idea came from another state with similar legislation. To me, it is not a concern if someone is a lobbyist.

Senator Atkinson:

Section 12, subsection 4, paragraph (a) of the amendment says you cannot hold an elective or appointed office and be a delegate.

Senator Settlemeyer:

That was what some other states were doing. If you wish, I could strike those.

Kevin Powers (Legislative Counsel):

That provision, which would now be section 12, subsection 4, paragraph (a), applies only to elective or appointed federal offices, not state or local offices. It prohibits a federal officer from being a delegate to a federal constitutional convention on behalf of Nevada.

Senator Segerblom:

How many delegates do we get?

Senator Settlemeyer:

Once two-thirds of the states are certified, then those details would be determined by each state. We could then select the individuals to send to the constitutional convention.

Senator Atkinson:

Since there has never been a federal constitutional convention, are we anticipating one?

Senator Settlemeyer:

Several issues are out there that people have been getting signatories on from different states. If it does happen and we are not in session, there should be rules in place to help restrain individuals from going rogue. If you send someone to a constitutional convention to discuss one topic and the person talks about another subject, that is not appropriate.

Senator Atkinson:

I understand. My party usually does not go rogue in conventions, but I understand why you need it.

SENATOR ATKINSON MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 274.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Farley:

Our next bill is S.B. 293.

SENATE BILL 293: Revises provisions relating to the disposition of unspent campaign contributions. (BDR 24-596)

Mr. Stewart:

This bill revises provisions relating to the disposition of unspent campaign contributions. I have a work session document to submit ([Exhibit D](#)). We have Proposed Amendment 6279 for the bill.

Mr. Powers:

The goal of Proposed Amendment 6279 is to carry out the full intent of S.B. 293, which is to ensure that anyone who becomes a candidate because of receiving a \$100 contribution has to, within a certain period of time, dispose of those contributions if that person does not become a candidate by filing a declaration or acceptance of candidacy.

The point of the proposed change is to cover every possible contingency that could occur with regard to a candidate who receives the \$100 contribution. It looks like a lot of changes across the proposed amendment, but each subsection deals with a different type of scenario—one where a public officer resigns from office and one where a public officer leaves office at the end of a term. All of these changes are intended to carry out the goal of ensuring that within the prescribed period of time, the public officer must dispose of the campaign contributions if he or she has not become a candidate for another office.

After this was drafted, we were unable to incorporate one other provision, which was changing the 2-year period in the original bill to a 4-year period. In section 1, the 2-year period would become a 4-year period.

Senator Brower:

One other issue came to light with this issue. In the Proposed Amendment 6279 at the top of page 3 where the first line says "receiving contributions in excess of \$100," it has been mentioned that to become a candidate, one would have to receive a \$100 contribution. But the language says in excess of \$100, and it says contributions, which is plural. That makes me wonder what the actual statute says.

Mr. Powers:

The statute defining candidate is *Nevada Revised Statute* (NRS) 294A.005. One of the subsections provides that candidate means "any person who has received contributions in excess of \$100, regardless of whether the person has filed a declaration of candidacy or an acceptance of candidacy or the name of the person appears on an official ballot."

Senator Brower:

So the language on page 3, line 1 of Proposed Amendment 6279 is exactly what is provided in that statute. This begs the question. We all know what in excess of \$100 means, but it also says contributions, which suggests that you have to receive at least more than one contribution exceeding \$100. If anyone agrees with me that this is potentially problematic, let me know.

Mr. Powers:

For the purpose of clarity, it would be appropriate to change the language to "a contribution in excess of \$100." We could also amend NRS 294A.005 to accomplish that same result. The preliminary chapter of NRS provides that the singular includes the plural and generally, the plural does include the singular. For the sake of clarity, that change in statute would not be a bad idea.

Senator Segerblom:

So if you took two \$51 contributions, it would not qualify.

Senator Brower:

What we want to achieve is a threshold which the statute provides now as in excess of \$100. That is a fair threshold. Do you think that under law, you would have to receive more than one contribution exceeding \$100?

Mr. Powers:

Existing statute, NRS 294A.005, would be interpreted that you become a candidate for purposes of the campaign finance law if you receive one or more contributions in excess of \$100. You read the plural to include the singular, which is in the preliminary chapter of NRS. Receiving at least one contribution in excess of \$100 would qualify you as a candidate for the purposes of the campaign finance law in NRS 294A.

Senator Brower:

That is good enough for me.

Senator Atkinson:

Did the limit used to be \$200?

Mr. Powers:

For the record, NRS 0.030, subsection 1, paragraph (a) states: "the singular number includes the plural number, and the plural includes the singular." That makes clear the use of the singular-plural term includes the other. Do we change NRS 294A.005 and the bill to the language we have talked about, or are we going to keep it as is?

Senator Brower:

I suggest we keep it as is in light of that statutory reality and interpretation.

Senator Atkinson:

What is the rationale of going from 2 years to 4 years? Is that just in one section of the amendment?

Senator Brower:

It is just for one section. This came from some informal polling of members where there seemed to be a consensus that 4 years was better than 2 years.

Mr. Powers:

Throughout all of section 1, the 2-year period would be changed to a 4-year period. That would be in subsection 6, the existing part of the bill. Also, the new green language in subsection 10, would be changed to 4 years. That change is in addition to what is in Proposed Amendment 6279, which may be confusing.

Senator Atkinson:

OK, I understand now.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 293 WITH PROPOSED AMENDMENT 6279.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Farley:

I will now open Senate Joint Resolution (S.J.R.) 20.

SENATE JOINT RESOLUTION 20: Urges the President and Congress of the United States to support the participation of the Republic of China on Taiwan in the Trans-Pacific Partnership. (BDR R-1264)

Mr. Stewart:

This measure urges the President and Congress of the United States to support the participation of the Republic of China on Taiwan in the Trans-Pacific Partnership. There are no amendments. I have a work session document ([Exhibit E](#)).

SENATOR SEGERBLOM MOVED TO DO PASS S.J.R. 20.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Farley:

I will open S.J.R. 21.

SENATE JOINT RESOLUTION 21: Urges Congress to enact comprehensive immigration reform. (BDR R-1266)

Mr. Stewart:

I have a work session document on this measure that includes some amendments ([Exhibit F](#)).

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS AMENDED S.J.R. 21.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Farley:

I will open S.B. 307.

SENATE BILL 307: Revises provisions relating to public officers and candidates for public office. (BDR 17-768)

Mr. Stewart:

This bill, among other things, clarifies the definitions of expenditure, entertainment and gift as they relate to the Nevada Lobbying Disclosure Act and Nevada's Financial Disclosure Act. I have a work session document to submit, ([Exhibit G](#)).

Senator Settelmeyer:

I will second this bill to move it along, but I hope there can be some discussion, either in the other House or elsewhere, about the monthly filing. Maybe there could be an exemption for those who do not get more than \$100 in or out in a month. It might settle some of the concerns about ballot access.

Chair Farley:

I would agree with that.

Senator Atkinson:

That is where I am too. I think we are going to have a lot of issues with this. I am like Senator Settelmeyer and hope we can fix this here or on the Senate Floor. I am surprised that the Office of the Secretary of State does not see any impact in this. It should affect staff there during election years.

Chair Farley:

The intent seems to be to vote this out of Committee but try to amend it on the Senate Floor.

Senator Atkinson:

I am voting for it now with the promise from the Majority Party in the Committee to fix it later.

Chair Farley:

I agree.

SENATOR BROWER MOVED TO DO PASS S.B. 307.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Farley:

I will open S.B. 421.

SENATE BILL 421: Makes various changes relating to statewide primary elections. (BDR 24-1148)

Mr. Stewart:

This bill moves the date of the statewide primary election from the second Tuesday in June to the Tuesday immediately preceding the last Tuesday in January in each even-numbered year. The work session document ([Exhibit H](#)) has two amendments. One is from the sponsor, Senator Settelmeyer, to amend section 7 of the bill to provide that the statewide primary election be held on the third Tuesday of February in each even-numbered year. The other proposed amendment comes from Clark County.

Senator Segerblom:

I cannot vote for this if it applies to next year. If we could push it back to 2020, I could.

Senator Atkinson:

That is the problem we talked about in the Committee hearing. The Democrats have already chosen their primary date and their caucus, so this does away with that and moves the date up for every primary to this date in February. It is a huge problem. I cannot support it.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 421.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS ATKINSON AND SEGERBLOM VOTED NO).

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Chair Farley:

We will close the work session now.

Senator Settelmeyer:

Senator Farley will present S.B. 434.

SENATE BILL 434: Makes various changes relating to initiative and referendum petitions. (BDR 24-1150)

Senator Patricia Farley (Senatorial District No. 8):

Senate Bill 434 is designed to strengthen and modernize Nevada's initiative petition process. I have submitted my written testimony ([Exhibit I](#)).

Brett Kandt (Special Assistant Attorney General, Office of the Attorney General):

We support S.B. 434 and have amendments to submit ([Exhibit J](#)). Those amendments revise the provisions in section 7 through section 9 regarding the conduct of the public process for the preparation and adoption of the title and description of effect. In the current bill, that process would be conducted by the

Attorney General (AG). Proposed amendments make it a collaborative process involving the Secretary of State (SOS) and the AG, recognizing that while we have some expertise to lend to the process, the SOS as the chief election officer should have a role in that process. If the process is then challenged legally, the AG would appear as legal counsel representing the SOS.

Lynn Chapman (Washoe County Chair, Independent American Party):

We oppose S.B. 434. We do, however, like section 10 because we like the idea of a booklet you can give to people who are undoing petitioning. I have submitted some proposed amendments and testimony ([Exhibit K](#)).

Vanessa Spinazola (American Civil Liberties Union of Nevada):

I echo Ms. Chapman's concerns. This bill is sort of an unfair trade-off between putting the description of effect over to the Office of the Attorney General and then taking out the ability of the public to sue on that. It is important for the public to be able to sue on the description of effect, especially because the AG can limit the hearings in which the AG will decide, with or without prior notice, both the presentation of arguments and the evidence necessary to limit the hearing.

If you are someone who opposes the description of effect, the AG who drafted the description of effect and does not want to hear you talking at the hearing can now limit what you have to say and limit your introduction of evidence—and then you cannot sue them later.

I do appreciate clarifying the process, but I absolutely maintain in section 15 of S.B. 434 that description of effect should remain for the public to be able to sue on what comes out of the AG's Office.

Senator Atkinson:

Going down this road, it seems like the well-funded, bigger types of folks pushing initiatives will get through. This definitely makes it almost impossible for the small folks to participate in this process.

This is where we may disagree, but I do not care for the initiative process. Ms. Chapman, are you saying this bill would hamper the ability for the smaller, less well-funded organizations to participate? I was shocked to hear the AG was already on board with it.

Ms. Chapman:

Yes, I was saying it would restrict the so-called little people from being able to continue to petition. I have worked on a lot of petitions, and it is not an easy process. It is getting more difficult all the time, and this ties our hands more than it unties them.

Howard Watts III:

I think the intent of this bill is good, but I still have some issues with it. One is how it will affect the timeline for groups circulating petitions. They will have to prequalify and then go through the process of creating this description of effect. There will still be a potential challenge process which would have to be negotiated, and then the regular collection process would start again at zero. We already have petitions starting in January of an election year. That would be pushed out for constitutional initiatives to the year prior to an election year. I am concerned about lengthening the timeline for this process.

Another problem is having the AG, or even the SOS, involved in crafting the language which can then still be challenged with a judge. Having partisan-elected officials make that decision, even with public input, leads to potential contentiousness and dissatisfaction. Maybe it would be better to have the courts involved in the process. That could address the issue of heading off lots of court challenges.

The idea of having the 2,000 signatures to keep frivolous initiatives off the ballot is an interesting idea, but dividing that between Congressional Districts makes it an arduous process for regular citizen groups.

What Senator Atkinson said is true. The people with the money and legal resources can navigate that process, but smaller groups cannot. I have worked with smaller groups trying to get an initiative on the ballot. We made a noble effort but did not make it on. We also had to defend it in court. I appreciate the attempt and intent of trying to keep people from having to defend all these lawsuits, but some of the ways we are going about it will not result in the outcomes we are looking for.

Alan Glover (Office of the Secretary of State):

The SOS has no objections to the AG's amendment and feels it is logical. We are developing a fiscal note because this will require additional personnel in the SOS Office. I am assuming that when this bill comes out of this Committee, it

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will be rereferred to the Senate Committee on Finance. We should have that fiscal note quickly. Other than that, we are neutral on this bill and support the amendment.

Senator Settlemeyer:

I will close the hearing on S.B. 434 now and ask for public comment. Seeing none, we are adjourned at 6:29 p.m.

RESPECTFULLY SUBMITTED

Linda Hiller,
Committee Secretary

APPROVED BY:

Senator Patricia Farley, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	2		Agenda
	B	4		Attendance Roster
S.B. 274	C	2	Michael Stewart	Work Session Document
S.B. 293	D	6	Michael Stewart	Work Session Document
S.J.R. 20	E	1	Michael Stewart	Work Session Document
S.J.R. 21	F	1	Michael Stewart	Work Session Document
S.B. 307	G	2	Michael Stewart	Work Session Document
S.B. 421	H	2	Michael Stewart	Work Session Document
S.B. 434	I	8	Senator Patricia Farley	Written Testimony
S.B. 434	J	3	Office of the Attorney General	Proposed Amendments
S.B. 434	K	2	Independent American Party	Proposed Amendments