

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

**Seventy-Eighth Session
April 10, 2015**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Patricia Farley at 7:45 a.m. on Friday, April 10, 2015, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 C. Powers, Legislative Counsel
Linda Hiller, Committee Secretary

OTHERS PRESENT:

Brett Kandt, Special Assistant Attorney General, Office of the Attorney General
Matt Griffin, The Griffin Group
Janette Dean
Peggy Lear Bowen
Pat Sanderson
Howard Watts III
Janine Hansen, Nevada Families for Freedom

Chair Farley:

I will open the work session today with Senate Bill (S.B.) 203.

SENATE BILL 203: Revises provisions relating to elections. (BDR 24-573)

Michael Stewart, Policy Analyst:

One major component of this bill recommends a vote center style of voting, which is much like what we see for early voting. This means a person can vote at any polling place. Another component of S.B. 203 requires the Department of Motor Vehicles (DMV) to establish a system allowing a data exchange between the DMV and the Office of the Secretary of State (SOS). Another major component of the bill is to allow preregistration of persons aged 16 or older if he or she will be 18 years old on Election Day. The bill also allows for Election Day voter registration and the electronic distribution of sample ballots.

Throughout the bill, a few antiquated references to things like binders and certain activities no longer used in our electronic and technological age are deleted. There are six amendments, all found in the work session document ([Exhibit C](#)). I have also included a copy of the First Reprint of Assembly Bill (A.B.) 94, a similar bill coming out of the Assembly this Session.

ASSEMBLY BILL 94 (1st Reprint): Authorizes election officials to establish systems for registered voters to elect to receive sample ballots by electronic means. (BDR 24-518)

Senator Atkinson:

I was not aware of the amendments. Has the bill's sponsor, Senator Spearman, signed off on them?

Chair Farley:

We took two bills that were almost identical and we amended them together. We did the same thing with Senator Ford's two similar bills, combining all the common things together.

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS AMENDED S.B. 203.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Farley:

I will close S.B. 203 and open S.B. 433.

SENATE BILL 433: Revises provisions relating to elections. (BDR 24-1145)

Mr. Stewart:

This bill requires each county election officer to publish before midnight of the following day the number of people who voted in the county during each day of early voting. Additionally, S.B. 433 makes changes to the times set for early voting. Amendments from Senator Atkinson and Sue Merriwether, Carson City's Clerk-Recorder, can be found in the work session document ([Exhibit D](#)).

Senator Settlemeyer:

Looking at Senator Atkinson's amendment, I agree with much of it. The criteria to help the county clerks help determine where best to place the voting locations within the Assembly Districts makes a lot of sense. However, I still like the concept of the SOS having the authority to intervene if the county clerks are doing something the SOS feels is biased or problematic. I do not think the county commissioners should have the power, because sometimes they are easily influenced by political pressures.

As for the rest of the amendment, I still like the idea of uniformity in the times these vote centers are open. Stating the hours for voting are 7 a.m. to 8 p.m. statewide makes the most sense to me.

I would like to see what Senator Atkinson thought about keeping what he wanted in section 3, subsection 2, paragraph (a) regarding the criteria and the factors, which makes a lot of sense to me. The rest of the amendment could be problematic.

Senator Atkinson:

While we understand the uniformity issue, we also understand that our State is unique. We have challenges in certain parts of our State that do not exist in other parts of the State. We heard from the county clerk in Clark County who said a 3-hour or 4-hour voting period was a challenge. That is not the issue in Clark County, where around 65 percent of the people vote early. If you have ever been in a line to vote in Clark County, you understand that early voting, especially in the last 3 days, as the clerk said, can be very challenging for voters to get in and vote. I understand the uniformity issue, but we also have to

understand challenges specific to a community. Leaving some of these decisions in the county clerk's hands is appropriate at this time.

Chair Farley:

Do we just want to take section 3 and just keep it SOS?

Senator Settelmeyer:

I would suggest that we keep Sue Merriwether's amendment. The other amendments the Committee suggested are reasonable, too. Except for the SOS portion, section 3, subsection 2, of Senator Atkinson's amendment makes sense.

SENATOR SETTELMEYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 433.

Kevin C. Powers (Legislative Counsel):

We need a clarification. Ms. Merriwether's amendment conflicts with the prior portions of the amendment that would require early voting on every day including Sundays and holidays. Ms. Merriwether's amendment would make that discretionary, while Proposed Amendment 6419 would make it mandatory. That is the conflict. The Committee will have to decide whether this is mandatory or discretionary for early voting on Sundays.

Senator Settelmeyer:

I will retract my amend and do pass motion and instead put forward to amend the Committee amendment without Ms. Merriwether's amendment and with Senator Atkinson's amendment, specifically section 3, subsection 2 without the SOS portion.

Mr. Powers:

Just to make sure everyone is clear, because we are going in different directions, let us look at Proposed Amendment 6419 in the work session document, [Exhibit D](#). That amendment captures the SOS component in section 3, subsection 2 with regard to the location of the temporary polling places. The final thing the Committee has to decide is whether Proposed Amendment 6419 incorporates Senator Atkinson's provision that a county clerk could allow a polling place to remain open after 8 p.m.

Proposed Amendment 6419 incorporates the proposed amendment that Senator Brower presented to the Committee on April 8 and some of Senator Atkinson's proposed amendments. Proposed Amendment 6419 combines both Senators' proposals. The Committee needs to decide on whether to allow that discretion for the county clerks to keep polling places open past 8 p.m.

Senator Settlemeyer:

I would move to amend and do pass as amended with Proposed Amendment 6419, incorporating the changes in Senator Atkinson's proposed amendment as to the factors—if they are not already in Proposed Amendment 6419.

Chair Farley:

So no changing of the hours?

Senator Atkinson:

I am getting confused. I am not clear on Senator Settlemeyer's motion. What exactly are you not accepting? It sounds like you are trying to take out the 8 p.m. close time.

Senator Settlemeyer:

I like the factors you had up above, that is reasonable. But there has to be some consistency within the polling uniformity of the voting locations, so there is a certain start and stop time.

Senator Segerblom:

Are you taking out the option for a county clerk to choose to remain open longer?

Senator Settlemeyer:

Correct.

Chair Farley:

I think that is the only change.

Senator Brower:

And the county commission reference.

Mr. Powers:

That county commission reference is not in the proposed amendment, but the SOS reference is, so it was taken care of already.

Chair Farley:

We are going to take Proposed Amendment 6419, just not include the hours. That is the motion we have to amend and do pass.

SENATOR BROWER SECONDED THE MOTION.

Senator Atkinson:

I am still not clear. Are you suggesting that the cutoff for the polls to be open is 8 p.m., or can it go after 8 p.m.?

Senator Settlemeyer:

I was trying to have uniformity within the location hours. Proposed Amendment 6419 said to close things down at 8 p.m., rather than 7 p.m., because I know people need a little more time to get out and vote. On Election Day the polls close at 7 p.m., but I understand the concept of an extra hour.

Senator Atkinson:

Are you not satisfied with the county clerk offices having the choice to stay open an hour or more past that time?

Senator Settlemeyer:

Correct.

Senator Atkinson:

I am sorry, but that is a big deal for us down in Clark County. Even that small change is not appropriate.

Senator Segerblom:

In Clark County, polling places in the malls are usually open until 9 p.m. We are concerned that if you close the polling place before the mall closes, it would adversely impact the voters.

Senator Brower:

We did hear that testimony, and we are simply not in agreement.

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

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Chair Farley:

I will close S.B. 433 and open S.B. 331.

SENATE BILL 331: Revises provisions relating to elections. (BDR 24-969)

Chair Farley:

We combined two bills from Senator Ford, S.B. 316 and S.B. 331, into one bill.
This is the DMV bill.

SENATE BILL 316: Revises provisions relating to voter registration.
(BDR 24-652)

Mr. Stewart:

This bill requires the SOS, DMV and each county clerk to cooperatively establish a system allowing data collected from a driver's license issuance or renewal to be transmitted from the DMV to the SOS for voter registration purposes. There are three proposed conceptual amendments included in the work session document ([Exhibit E](#)).

SENATOR ATKINSON MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 331.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Farley:

I will close S.B. 331 and open S.B. 434.

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

Mr. Stewart:

This bill revises the process by which the required description of the effect of a statewide initiative and referendum petition is prepared and challenged. A proposed amendment from Brett Kandt of the Office of the Attorney General (AG) replaces sections 7 through 9 in the work session document ([Exhibit F](#)).

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

The purpose of this bill is to ensure that the title and the description of effect on a petition are fair and accurate representations of what that initiative would do. To ensure the process accomplishes that in the simplest way possible, we have come up with an alternate procedure. When it comes to the title, we think it should just be a number assigned by the State.

When it comes to the description of effect, we have another procedure that accomplishes the goals of this legislation in a simple fashion. When a proponent of an initiative petition files with the SOS, he or she has to provide a proposed description of effect to be used on the petition documents. A 15-day period would follow this, during which anyone could challenge that description of effect, proposing an alternative. If no one challenges, the proponent's description would be the description of effect used on the petitions.

If one or more parties challenge the description of effect or propose an alternative description, then the AG's Office would file an action for declaratory relief in the First Judicial District Court within 15 days. This would include the proposed description of effect provided by the proponents, any alternate proposed description of effect filed by challengers or opponents and the names of all the parties, proponents and anyone who filed an opposition. Then the court could make the determination. Broadly stated, that is what we have come up with for this proposed amendment.

Matt Griffin (The Griffin Group):

When that matter proceeds to the district court, the parties who have filed opposition may also appear in that legal action, but they are not required to. This process allows the proponent of a petition to not necessarily have to proceed with the current litigious process. The description of effect goes to court virtually every time there is opposition. The person or persons can file

their proposal with the SOS, and the AG will transmit that information to the district court.

SENATOR BROWER MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 434.

SENATOR SETTELMAYER SECONDED THE MOTION.

Senator Segerblom:

I appreciate the interest in making these changes, but it seems to me this is a solution without a problem. The system is working. These petitions are important to Nevada because they allow us to get around some of the intransigents we see in the Legislature. An example is the marijuana issue—we would never have marijuana to consider but for the initiative process. I will vote no because this makes it tougher and the current process is tough enough.

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

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Chair Farley:

I will close S.B. 434 and open S.B. 436.

SENATE BILL 436: Makes various changes relating to elections. (BDR 24-1146)

Mr. Stewart:

This bill relates to absent ballots and provisions relating to voter registration as they apply to inactive voters. There is an amendment that deletes every section of the bill except for section 9. That section clarifies that the person who wishes to register more than 50 people must register with the SOS and the appropriate county clerk. The work session document ([Exhibit G](#)) has the full amendment included.

The Committee may want to consider the ability to compare a signature against the list of names filed with the SOS. I do not know if the signature and that list may be easily read. It might be worth considering what should be done if the signatures should not match.

Senator Brower:

The idea is to leave it up to the SOS to issue regulations to deal with those latter issues you raised.

SENATOR BROWER MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 436.

SENATOR SETTELMAYER SECONDED THE MOTION.

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

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Chair Farley:

I will close S.B. 436 and open S.B. 499.

SENATE BILL 499: Creates a modified blanket primary election system.
(BDR 24-1149)

Mr. Stewart:

This bill was the bill on work session.

Senator Settlemeyer:

Just for clarification, there was a mistake within the work session document. The amendment is not from the Green Party, it is from me to address an issue of lawsuits within the Green Party. We just need to correct that on the record.

Mr. Stewart:

We will note for the record that the amendment is from Senator Settlemeyer, not the Green Party. We will correct that. This bill was heard on Monday, and Senator Atkinson asked that we roll it so we could have another crack at it. I did provide additional background and information concerning this issue in the work session document ([Exhibit H](#)). There is an amendment.

The amendment from Senator Settlemeyer would delete the bill in its entirety and add new language. It would move the deadline to early June for minor party and independent candidates to file their petitions for ballot access. It would also modify the primary election rules to require a primary election any time there are

two or more major party candidates, regardless of whether a minor party or independent candidate has filed.

The amendment also prohibits candidates who lose their major party primary from appearing on the ballot as a minor party or independent candidate. Finally, it makes petition time limit adjustments to allow enough time for court challenges relating to the sufficiency of the petitions filed by minor or independent party candidates.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 499.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Farley:

I will close S.B. 499 and open S.B. 421.

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

Chair Farley:

On Monday, we passed this bill and added an amendment to establish that the primary be on the third Tuesday in February. We need to change this to the last Tuesday in February.

SENATOR SETTELMAYER MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON S.B. 421.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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

Senator Atkinson:

Why are we doing this?

Senator Settelmeyer:

The amendment just changes the language to the last Tuesday in February. I did not realize that there are four Tuesdays in February. Rather than saying four Tuesdays—since sometimes you do and sometimes you do not have four Tuesdays in February—this simplifies it to the last Tuesday in February to clarify.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Farley:

I will now take public comment.

Janette Dean:

I am here with many men and women supporters for Nevada ratification of the Equal Rights Amendment (ERA). We heard the Committee would not put S.J.R. 16 to a vote even though so many support it, and I am having a hard time explaining to my supporters and everyone across the State why we are not voting on this. I would like to know why we cannot even vote today on it.

SENATE JOINT RESOLUTION 16: Ratifies the Equal Rights Amendment to the Constitution of the United States. (BDR R-786)

Senator Brower:

It is certainly not the Committee's intent to allow for debate during public comment, so we are careful not to get into that. Let me just give you my perspective as one Senator. Simply put, the deadline is passed. I know there is some dispute or disagreement about that in some circles.

Let me back up and say that while I am very, very sympathetic to the issues presented by this resolution and to the proponents' point of view as I made clear on the record at the hearing, I will say for the record that I am similarly appalled by some of the opposition. I received emails questioning why we are passing a sex education bill. That could be a mistake on the part of misinformed people, but I received a lot of them. Once again, the misinformation campaign, the distortion and exaggeration of what a resolution actually does and does not do, is just frustrating, at least to this Senator.

The deadline for ratification was in 1982. That was a deadline set forth by Congress. Congress can change that, but it has not. In fact, attempts have been made in the Congress to remove the deadline altogether, but they have not been successful. Most recently, in 2013, the State Legislature in New Mexico passed a resolution which included, among other language, the following on this topic:

Whereas 35 of the 38 states required for the amendment to become part of the constitution ratified the Equal Rights Amendment by the deadline of 1982; and whereas the deadline for ratification is not in the binding text of the document itself, and in fact was later extended by another Congress for an additional 3 years, thus establishing the precedent that Congress has the power to do so; and whereas in the 112th Congress, Senate Joint Resolution 39 introduced by Senator Ben Cardin and House Joint Resolution 47 introduced by Representative Tammy Baldwin, would remove the deadline for ratification of the amendment so that an additional three states may ratify it

This goes on and on, but it is clear that the New Mexico legislature and Congress itself has acknowledged a deadline that Congress can eliminate or extend. But it has not done so. While I sympathize with the intent, it is simply procedurally defective. The deadline is passed and we cannot process it. At least from my perspective, that is why the Committee is not taking up time with a vote on this resolution.

Chair Farley:

Being a Committee and putting forth things that might be legally defective is not necessarily the right role for us. We need to fix the issue and get it properly in front of the Committee.

Senator Atkinson:

I am confused. The attorney on the Committee stated a lot of things I was not aware of.

Chair Farley:

This also came through the Legislative Counsel Bureau.

Senator Atkinson:

Can we hear from our Legal Counsel?

Mr. Powers:

Thank you, Madam Chair. The LCB agrees with the major propositions that Senator Brower just stated, that it is in fact true that Congress has not extended the deadline and that generally the U.S. Supreme Court has viewed the amendment process under Article V where Congress proposes amendments to the states that it's ultimately in the exclusive power of Congress to determine whether or not to consider state ratifications that were received after the deadline. But without that congressional action, the deadline has in fact passed, and it would require that additional congressional action in order for a state ratification to be given legal effect after the deadline.

Ms. Dean:

State ratifications would in fact help lift the deadline. That is why the Virginia Senate passed the ERA four times since 2011 and the Illinois Senate passed it in 2014. States that want to go on record supporting the ERA with the knowledge that their ratifications will be accepted at a later date, hopefully within the next 5 years at the most, are getting on record with ratification. We would hope Nevada would do the same.

Chair Farley:

We are going to follow legal advice and process accordingly.

Peggy Lear Bowen:

Maybe we have just uncovered what Nevada can do—incorporate and amend that which we have asked you to do in S.J.R. 16 and not only ask for the ratification of the ERA as supported by, obviously, even the members of the Committee. I can appreciate you not wanting to go on record for the

State of Nevada to come up with a no vote. People would attribute it to the ERA instead of regarding the deadline.

Might I suggest an amendment, that you do ratify and pass the ERA and ask Congress to lift the deadline and incorporate that within your motion, so you are being progressive instead of just spinning wheels as in Virginia and Illinois. I do not think any of the states have asked for the lifting of the deadline, they just let it be understood. If you codify it within your motion through an amendment, you get done and you become No. 1 in the Nation to give life and breath to the document that is the founding of this Nation. The U.S. Constitution is a living, breathing document, and you add the women's breath to our document so it is a living document of, for and by all the people.

Chair Farley:

With the advice we have been given, we have to follow the law.

Pat Sanderson:

As far as setting the voting hours in stone, what happens if there are technical problems and people are still wanting to vote? Would the county clerks not be able to allow the people in line to continue to vote?

Howard Watts III:

When it comes to voting hours, we do not want to pare back what we already have. I understand the need for uniformity, but uniformity for the sake of uniformity does not make sense. We would not put the same transportation infrastructure in our different counties. We would not do a lot of things identically between more urban areas and more rural areas. Please work on the Senate Floor to make sure no voting hours are being reduced; figure out some way to preserve consistency while also preserving access for the voters, especially here in Clark County.

Janine Hansen (Nevada Families for Freedom):

I want to say to Senator Brower that although we disagree on the substance of S.J.R. 16, I try to be accurate in the information I put out. I am sorry for any confusion that occurred, because I put nothing out about sex education, but there is a bill in the Legislature on that and perhaps people got confused. I apologize. I try to stick to the issues.

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Chair Farley:

We are adjourned at 8:38 a.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	2		Attendance Roster
S.B. 203	C	18	Michael Stewart	Work Session Document
S.B. 433	D	8	Michael Stewart	Work Session Document
S.B. 331	E	1	Michael Stewart	Work Session Document
S.B. 434	F	2	Michael Stewart	Work Session Document
S.B. 436	G	3	Michael Stewart	Work Session Document
S.B. 499	H	17	Michael Stewart	Work Session Document