

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Ninth Session
April 13, 2017**

The Committee on Legislative Operations and Elections was called to order by Chairwoman Olivia Diaz at 1:51 p.m. on Thursday, April 13, 2017, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Olivia Diaz, Chairwoman
Assemblyman Nelson Araujo, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Skip Daly
Assemblyman John Hambrick
Assemblyman Ira Hansen
Assemblyman Richard McArthur
Assemblywoman Daniele Monroe-Moreno
Assemblyman James Ohrenschall
Assemblyman James Oscarson

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Carol Stonefield, Committee Policy Analyst
Kevin Powers, Committee Counsel
Julianne King, Committee Secretary
Melissa Loomis, Committee Assistant

Minutes ID: 803



OTHERS PRESENT:

Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada
Janine Hansen, National Committeeman, Independent American Party of Nevada
Wayne Thorley, Deputy Secretary for Elections, Office of the Secretary of State
Susan Merriwether, Clerk/Recorder, Carson City

Chairwoman Diaz:

[Roll was taken. Committee rules and protocol were explained.] We will have the bill hearing first and then the work session. I will open the hearing on Assembly Bill 226, which is a proposal relating to filing deadlines and candidates in primary and general elections.

Assembly Bill 226: Revises provisions relating to elections. (BDR 24-88)

Assemblyman Ira Hansen, Assembly District No. 32:

Last session the Committee passed Senate Bill 499 of the 78th Session, which says that if one major party does not file a candidate in a particular race, and no minor party or independent candidates have filed for that office, the winner of the primary is automatically the winner of the office and does not go on the general election ballot. At the time, I voted for it, and it sounded like a good idea. However, the practical result has been that we have disenfranchised all of the people who are not a member of that party or who are not registered in either party. That is what Assembly Bill 226 is really all about.

If you look in your packet, you should have received a handout (Exhibit C). You should look that over very carefully. What has happened is, if you look at the parties, out of 21 races, 20 of them were Republican-only. In other words, the Democrats and Independents in 20 different elections did not get to vote for the person who now represents them. We spend a lot of time in this place trying to get people to turn out to vote, and we talk about giving felons the right to vote and similar things, but by this one bill [S.B. 499 of the 78th Session], we disenfranchised virtually everyone in the opposite party, and we disenfranchised everyone who is an Independent.

If you look at the very last column, you will see the total registered voters who actually voted for the winner. You will notice that on average, it is 10 percent or less of the registered voters. This means that a huge percentage of people did not even get an opportunity to vote. Nevertheless, if you are trying to make it fair, no one should ever be denied the right to vote for somebody running for office because they are not a member of your party or my party. That is all A.B. 226 does. It says if there is a primary, and for whatever reason Democrats, Republicans, or Independents do not field a candidate, those two individuals would have to go on the general election ballot, not just on the primary ballot. You can still have a primary if someone else gets in the race, which is the normal way.

For example, Assemblyman Daly and I live in the same county commission seat. In this particular county commission race, we had two Republicans, Vaughn Hartung and Maurice Washington, run. The only people that were allowed to vote on that county

commission seat were Republicans. What should have happened because only two people from the same party signed up, is it should have gone to the general ballot, so the Democrats and Independents also had an opportunity to vote. Assemblyman Daly was actually disenfranchised from selecting his own county commissioner. As I looked at the results, this has been a huge advantage for the Republican Party.

I do not mean to beat up the Democrats, but I have not done my due diligence. The reason I brought this bill is that I had a bunch of people asking why they were not allowed to vote in some election cycles. In disproportionate numbers, they were Democrats. I thought they had a very legitimate case. I do not believe we have the right to exclude anyone because they are not a member of one party or another party.

I would suggest that the members of this Committee give serious thought to this. It really has been a huge advantage for the Republican Party and a huge disadvantage for the Democrats in those various districts. I have done my due diligence at this point. If you want to keep it as it is, obviously my party would be completely happy with those results. However, I do not think that is right for the people that live in these districts. I think everyone in Nevada should have the right to vote and to select the people that represent them.

Assemblyman Ohrenschall:

Thank you for bringing this bill. Do you know, in the last election, how many races statewide were decided in the primary by one party?

Assemblyman Hansen:

That is in the handout ([Exhibit C](#)). There is a list of the specific races on the far left. Right next to that, it says "party." There was 1 Democratic race and 20 Republican races. Basically, all of those Democrats were excluded from voting in those other races.

Assemblyman Ohrenschall:

Last session there was some legislation that changed how judicial races go, and I voted against it. If there was 50 percent plus one, it was decided in the primary, and there would be no general election. Is that something you have thought about? Would you be willing to amend that into this bill?

Assemblyman Hansen:

That is an amendment ([Exhibit D](#)). It does not have anything to do with the judiciary races though. Judiciary races are nonpartisan races. Therefore, even in the primary, everyone gets to vote. If you look at the amendment, someone pointed out that in the existing law, prior to what we passed last session, there was a provision that if three people ran from the same party in the primary, and one of them got 50 percent plus 1 vote, they would automatically become the elected representative for that district. That is the same problem I am trying to correct. Essentially, only the people that can vote in the primary in a partisan race were able to make the selection. That is what the amendment addresses. The preexisting law, prior to last session, still had that provision in it. We are getting rid of that too.

That is what the amendment does. That way, even if there are three people in the primary instead of just two, they still have to go to the general election ballot.

Assemblyman Ohrenschall:

Pursuant to your amendment, if three people from the same party run for office in the primary and one gets 70 percent, one gets 20 percent, and one gets 10 percent, the two with the highest percentages would face off in the general runoff among all the voters of all parties.

Assemblyman Hansen:

Yes.

Assemblyman Daly:

I would like to thank Chairwoman Diaz for letting this bill get a hearing and a possible amendment. We are looking for the simplest way to correct those issues regarding the situations Assemblyman Hansen talked about. As you show, there are 19 or 20 races where that happened. I am hoping we can get some consideration. Obviously, we just got this mock-up ([Exhibit D](#)) and have not had much of a chance to read it, but that is the single issue we are trying to correct with this bill. The mock-up proposes to delete section 1 and 2 and correct it in section 3.

Assemblyman Hansen:

I apologize also for not thanking Chairwoman Diaz. She has been gone for a while, and I am glad to see her back. I wanted to thank her as well for giving me this opportunity to present the bill. I really think that this is great for the majority party, but at this point, it is in your hands. Thank you again for the opportunity to give this presentation.

Assemblywoman Monroe-Moreno:

If this passes and in the general election, "none of the above" receives the most votes, what happens?

Kevin Powers, Committee Counsel:

The "none of the above" category does not get counted as part of the results, so "none of the above" cannot win. It is the person who receives the most number of votes at that election regardless of how many votes are cast for the "none of the above" category.

Chairwoman Diaz:

Are there any other questions from the Committee? [There were none.] We will take testimony in support of [A.B. 226](#).

Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada:

Though I had originally signed in as opposition, as amended, I am happy to support this bill. We believe all voters should have a voice in the democratic process. We think the amendments to the primary process offered by this bill are excellent. We were only initially

opposed to the alterations and the filing deadlines for third parties, but with those amended out, we are very happy to support this bill.

Janine Hansen, National Committeeman, Independent American Party of Nevada:

We had originally opposed the section of the bill with the deadline changes for minor parties, and the reason for that is because the Ninth Circuit Court of Appeals has declared that those deadlines are unconstitutional. With the change in the amendment, we support the bill.

Chairwoman Diaz:

I do not see anyone else in support. We will go to testimony in opposition. Is there any testimony in neutral?

Wayne Thorley, Deputy Secretary for Elections, Office of the Secretary of State:

With the amendment, as proposed, we are neutral on this bill. Without the amendment, we do have concerns about changing the deadlines related to some court action that had been initiated in the past based on the deadline. By moving the deadline last session through Senate Bill 499 of the 78th Session, we were able to resolve that litigation outside of court. With the amendment, we are neutral. Thank you.

Susan Merriwether, Clerk/Recorder, Carson City:

I was not planning on testifying today, but I have an email from Luanne Cutler, the Registrar of Voters in Washoe County. She did want to request to amend the deleted section, so I am sure she will be happy that was taken out. We are neutral on the bill. Luanne Cutler wanted to relay the message that she believes this will help clarify for many people who are confused about why some people are on the ballot and some are not. Thank you.

Chairwoman Diaz:

Is there anyone else wishing to testify in the neutral position for A.B. 226? [There was no one.] Do you have any closing remarks, Assemblyman Hansen?

Assemblyman Hansen:

I appreciate your giving me this opportunity.

[([Exhibit E](#)) was submitted in support of Assembly Bill 226 but was not discussed.]

Chairwoman Diaz:

We will close the hearing on A.B. 226. We will now go to the work session on measures previously heard and considered by this Committee. We have ten measures to consider. The members have the work session documents, and they have been posted on the Nevada Electronic Legislative Information System (NELIS). I will remind those present that a work session is not a rehearing of the legislation, and I will not take testimony; however, I may choose to clarify for Committee members. We will begin with Assembly Bill 21.

Assembly Bill 21: Makes various changes relating to elections. (BDR 24-2)

Carol Stonefield, Committee Policy Analyst:

Assembly Bill 21 was heard in this Committee on February 23, 2017 ([Exhibit F](#)). It was presented on behalf of the Secretary of State. It relates to candidate qualifications and residency. A candidate who knowingly and willfully files a declaration of candidacy, acceptance of candidacy, or a declaration of residency which contains a false statement is guilty of a gross misdemeanor. A candidate must present two types of acceptable identification and documentation as proof of identity and residency.

In a preelection court action that is brought to challenge a candidate, the court may disqualify the candidate and may order the candidate to pay attorney's fees and costs, including those of the Attorney General or a district or city attorney. The forms are revised to include a statement that a candidate understands these consequences. A candidate is required to open and maintain a separate account in a financial institution in Nevada. The same requirement applies to certain committees.

There is an amendment. It is mock-up 3126 in the work session document [page 3, ([Exhibit F](#))]. This amendment proposes to make the following changes: (1) The name of a candidate who fails to meet any qualification must not appear on the ballot unless the deadline for changing the ballot has passed; (2) No fees may be charged if the action was brought by the Attorney General or a district or city attorney. Reasonable fees or costs must be determined in accordance with the *Nevada Revised Statutes* and the *Nevada Rules of Civil Procedure*; (3) The provisions do not apply where they conflict with the power of each house of the Legislature to act with regard to its own members; (4) Candidates for federal office are not subject to certain provisions; (5) The Secretary of State may adopt regulations establishing forms of alternative proof of residence in certain circumstances; (6) Provisions are added to clarify a person's actual and legal domicile; and (7) The account to be maintained in a separate financial institution must be located in the United States.

Chairwoman Diaz:

I want to acknowledge the Secretary of State's willingness to work with Assemblymen Elliot T. Anderson and Daly, who had concerns and recommended amendment language. Thank you for taking their amendments. I will entertain a motion to amend and do pass A.B. 21.

ASSEMBLYMAN DALY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 21.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Oscarson will take the floor statement. Next we will hear Assembly Bill 45.

Assembly Bill 45: Revises provisions relating to public office. (BDR 24-426)

Carol Stonefield, Committee Policy Analyst:

Assembly Bill 45 was heard in this Committee on April 11, 2017. It was also brought by the Committee on behalf of the Secretary of State. Assembly Bill 45 revises provisions relating to election administration and campaign finance reporting. Provisions relating to voter registration include the following: A voter registration drive is defined; a person who accepts a completed application is required to deliver it as provided; and a nongovernmental entity that sends a notice to a person indicating the person is not registered to vote must indicate that the notice is not an official mailing from the Secretary of State or a county or city clerk. A person who intends to circulate a petition must submit certain information to the Secretary of State. An authorized person may withdraw a petition.

The Secretary of State may adopt regulations establishing qualifications for a person to assist in a voter registration drive and circulate a petition for initiative or referendum. The Secretary may also conduct an investigation concerning alleged violations of financial disclosure by candidates. Campaign finance reporting requirements relating to a special election to recall a public officer are revised to apply when the special election is not held. Deadlines for filing certificates of nomination for the office of President and Vice President are established. An independent candidate for President must file with the Secretary of State a copy of the petition before it is circulated. There is a special note in the work session document ([Exhibit G](#)) saying federal citations relating to elections are updated throughout the bill.

There is a proposed amendment ([Exhibit H](#)). It is not included in the work session document. It makes numerous changes throughout the bill. It strikes provisions relating to voter registration drives. On page 2, it strikes deadlines for filing for President and Vice President. On page 3, it strikes updated federal citations. On page 5, in section 13, that is *Nevada Revised Statutes* (NRS) 293.504. This relates to offices that serve as voter registration agencies. The change in that section is on page 6, in subsection 4. The change provides registration will be pursuant to NRS 295.560 which appears later in this bill. Page 7 refers to field registrars.

Page 8 deletes sections relating to voter registration drives. Page 9 inserts a new section. Section 14.2 relates to the last day to register to vote due to illness, disability, and other causes. Section 14.4 inserts NRS 293.524, which relates to the Department of Motor Vehicles. All of these have the new language relating to the last day to register to vote.

On page 10, section 14.6 includes NRS 293.560, which is new to the bill. The language is changed on page 11, starting at line 33, where the new language proposes that during the two weeks immediately preceding the last day to register to vote pursuant to this section, the county clerk must expedite the processing of all applications to register to vote that are returned by mail. Nothing in this subsection authorizes a person to vote in an election before the county clerk has processed a person's application to register to vote and the person is a registered voter.

Additional changes are on page 12, in section 15.5, which inserts NRS 293C.527 which relates to city elections. On page 13, that new language about expediting applications returned by mail is inserted. Additional references in the following sections on federal citations are deleted. Starting on page 17, section 24 relates to campaign practices in NRS Chapter 294A. There is new language concerning the reporting of balances in accounts. Page 19 relates to a petition for recall. That language has been deleted. On page 20 and following, there are sections that relate to reporting requirements, but no special election is held. Those are deleted.

Additional sections are related to reporting expenses, independent expenditures, and petition for recall. On pages 28 and 29, a new section is inserted that relates to categories of expenditures including those paid for by credit card or debit card. Additional sections on circulating petitions and deadlines for filing for the President and Vice President are deleted. The sections proposed relating to investigations conducted by the Secretary of State and others related to financial disclosure statements are deleted.

Chairwoman Diaz:

A lot of paring down of the bill happened after receiving all of the comments and recommended amendments from the opposition. This is as much as we could get consensus on. I really liked Maureen Schafer's transparency provisions that she presented, which was a friendly amendment that the Secretary of State recognized. I do believe there might be some other things we need to work through, but I would like to continue to have the conversations and pass it out as is because of the late hour of committee passage. Are there any questions?

Assemblyman Ohrenschall:

I had some concerns about the original bill regarding the language and regulations considered being enacted under section 29 for initiative petition signature gathering and in sections 30 and 31 regarding initiative petitions. It looks like that has all been stricken. I just want to make sure that this bill does not affect the initiative petition process in any way.

Kevin Powers, Committee Counsel:

That is correct. The provisions of the bill that were being proposed in NRS Chapter 295 that governs the initiative referendum process are being proposed to be removed from the bill in the mock-up amendment ([Exhibit H](#)). If the amendment is adopted, the bill will no longer deal with NRS Chapter 295.

Assemblyman Ohrenschall:

At the hearing, there was an amendment proposed by Maureen Schafer. Is that amendment in the mock-up in its entirety? I am not finding all parts of it. I certainly see the parts about the bank balance being reported. I wanted to verify that.

Kevin Powers:

All of the parts of the proposed amendment dealing with use of the credit card for the campaign practices are in the mock-up. In addition, the parts dealing with the ending

account balance during the reporting period are also in there. As a drafting matter, the proposed amendment had to be broken up and put into the appropriate sections of NRS. Section 27.2 of the mock-up ([Exhibit H](#)) is on pages 28 and 29. That is the provision of the mock-up that deals with disclosing for campaign expenditure and expenses that are paid with a credit or debit card. This requires the candidate to itemize each transaction instead of just disclosing that it was paid through a credit card company. The candidate would now have to itemize each of the vendors who actually received the payment. As far as the ending account balance, that provision is inserted in other parts of the mock-up in NRS Chapter 294A that deal with the disclosure requirements. For the record, that is in section 24.5 of the mock-up.

Assemblyman Ohrenschall:

Thank you. There is a lot of strike-through language, and I was just trying to see what was left.

Assemblywoman Bilbray-Axelrod:

I did have some heartburn with the initiative petition sections. I know you said that language was completely stricken, but section 32 opens up NRS 295.056, NRS 293.1276, and NRS 293.1279. I just want to make sure that there were not opportunities, even though initiative petitions are mentioned there, that we could go back in. I really want those to be off the table.

Kevin Powers:

I believe that the provisions Assemblyman Ohrenschall and Assemblywoman Bilbray-Axelrod are concerned about are in sections 28, 29, 30, and 31 of the mock-up. Those are all being stricken. Section 32 deals with an entirely different issue. Section 32 is about the date after circulating for signatures that the proponents must then submit the petition back to the Secretary of State. If that date to return the petition with signatures to the Secretary of State falls on the date of the general election, then they can submit the petition on the next working day. Then it is just the workload issue for the Office of the Secretary of State.

Assemblyman Ohrenschall:

Just to follow up, under current law, if it does fall on the date of the general election, that would be the deadline date. This would actually extend the date.

Kevin Powers:

If the date for having to submit the petition back to the Secretary of State falls on the general election, then the next working day becomes the date. So, it actually does extend it by a day. I believe that is for the Secretary of State's workload. They have enough to do on the day of the general election; they do not want to have to deal with receiving a petition on that particular day.

Chairwoman Diaz:

I will entertain a motion to amend and do pass Assembly Bill 45 with mock-up amendment 3818 ([Exhibit H](#)).

ASSEMBLYMAN HANSEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 45.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Hansen will take the floor statement. Next is Assembly Bill 104.

Assembly Bill 104: Makes various changes relating to elections. (BDR 24-184)

Carol Stonefield, Committee Policy Analyst:

Assembly Bill 104 was heard in this Committee on April 6, 2017. It was brought by Assemblywoman Spiegel. It proposes numerous changes to administration of county and city elections. These include automatic voter registration, preregistration of citizens who are at least 16 years of age, electronic rosters, and registration during early voting, same-day registration on election days, establishment of permanent early voting sites, and voting centers. There is a conceptual amendment in the work session document [page 2, ([Exhibit I](#))] offered by Assemblywoman Spiegel.

Essentially, this amendment does the following: All references to automatic voter registration, including preregistration of citizens not yet old enough to vote, are deleted. Clerks with access to electronic poll books shall establish one or more permanent early voting centers, provided that a county without access to such technology shall obtain this capability when it upgrades election systems. Clerks may designate one or more election day sites as locations for same-day registration. Clerks shall publish these locations unless all voting sites provide registration on election day. References to provisional ballots have been deleted.

Chairwoman Diaz:

Are there any questions?

Assemblyman Hansen:

I think the bill is great with the amendments. However, I am going to vote no and reserve my right to change my vote on the floor because it is all conceptual at the moment. I will probably support it on the floor once I read the amendment.

Assemblyman McArthur:

I will be voting no with the right to change my vote on the floor.

Assemblyman Oscarson:

With the amendments, I think it is good. I will vote to support it, but I reserve my right to change my vote once I see the entire bill.

Assemblyman Hambrick:

I will be doing the same as Assemblyman Oscarson.

Chairwoman Diaz:

I will entertain a motion to amend and do pass Assembly Bill 104 with the conceptual amendment.

ASSEMBLYMAN DALY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 104.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN AND McARTHUR
VOTED NO.)

Assemblywoman Spiegel will take the floor statement. The next bill is Assembly Bill 325.

**Assembly Bill 325: Creates the Task Force on the Modernization of State Government.
(BDR 19-953)**

Carol Stonefield, Committee Policy Analyst:

[Read from work session document ([Exhibit J](#)).] Assembly Bill 325 was heard in this Committee on March 30, 2017, and was presented by Assemblywoman Cohen. Assembly Bill 325 creates the Task Force on the Modernization of State Government. The Task Force consists of nine members, appointed by legislative leaders, the Governor, and the Supreme Court. The Task Force shall form subcommittees in the Legislative Branch, the Executive Branch, the Judicial Branch, and the Nevada System of Higher Education. Each subcommittee shall review its relevant Branch or System for the purpose of making recommendations to improve its structures and procedures. The Task Force shall report to the Legislature at least twice each year. It may request the drafting of up to three legislative measures. The Task Force may dissolve itself by unanimous vote. The Act expires on June 30, 2021.

Chairwoman Diaz:

The bill sponsor said she was fine with the measure as drafted. I will entertain a motion to do pass.

ASSEMBLYMAN ELLIOT T. ANDERSON MOVED TO DO PASS
ASSEMBLY BILL 325.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Cohen will take the floor statement. As a backup, we will have Assemblyman Anderson take the floor statement. Next we will hear Assembly Bill 396.

Assembly Bill 396: Revises certain provisions relating to public officers and candidates for public office. (BDR 17-893)

Carol Stonefield, Committee Policy Analyst:

[Read from work session document ([Exhibit K](#)).] Assembly Bill 396 was heard in this Committee on April 6, 2017. It was presented by Assemblyman Daly. It proposes to revise provisions governing lobbying of state legislators and those governing financial disclosure statements filed by public officers and candidates. Certain existing definitions are revised as follows:

- A "de minimis" gift is added to the exception for certain gifts from a lobbyist to a legislator, family member, or staff. Multiple de minimis gifts given by a lobbyist with the intent of circumventing the ban are prohibited.
- The definition of "educational or informational meeting, event or trip" is revised to exclude such occasions undertaken as part of employment or contract, and an activity to which every legislator is invited, even if no formal speech or presentation occurs.
- The definition of "gift" is revised to exclude income from investment property; transactions conducted in the regular course of business at prices available to the public; payments in context of employment or contract; and payments resulting from judgments, arbitration, or settlements.
- The definition of "lobbyist" is revised to exclude a person who employs or enters into a contract with a lobbyist.

Existing law requires a public officer or candidate to disclose certain items of value received from an "interested person." This definition is restricted to someone the officer or candidate knew or reasonably should have known had an interest in the action of the officer or candidate. The bill eliminates the requirement that a public officer or candidate provide information on the financial disclosure statement for a full year, if the officer or candidate was not a public officer during that calendar year. No amendments were offered.

Chairwoman Diaz:

I will entertain a motion to do pass A.B. 396.

ASSEMBLYMAN HAMBRICK MADE A MOTION TO DO PASS
ASSEMBLY BILL 396.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Daly will take the floor statement. Next is Assembly Bill 403.

**Assembly Bill 403: Revises various provisions relating to governmental administration.
(BDR 17-573)**

Carol Stonefield, Committee Policy Analyst:

[Read from work session document ([Exhibit L](#)).] Assembly Bill 403 was heard in this Committee on April 4, 2017. It was presented by Assemblyman Daly. The bill creates the Governmental Oversight and Accountability Subcommittee of the Legislative Commission. The Subcommittee has the authority to evaluate and review issues related to governmental agencies. The Legislative Commission is authorized to suspend or nullify a regulation of a state agency under certain circumstances. Judicial review of such a decision is precluded. The Subcommittee to Review Regulations is abolished; the Legislative Commission is required to review and approve permanent regulations, with limited exceptions.

The Legislative Commission is authorized to adopt regulations necessary to carry out the provisions of the Nevada Administrative Procedure Act. A state agency must submit the proposed regulation to the Legislative Commission for review within a specified period. A state agency must also hold a public hearing on a proposed regulation, if requested. The Legislative Counsel is not required to publish a paper copy of the register. A copy of a written statement of emergency, endorsed by the Governor, must be filed with the Secretary of State before an emergency regulation becomes effective. There is a conceptual amendment proposed by Assemblyman Daly. He proposes to delete sections 1 through 8 of the bill that relate to the Governmental Oversight and Accountability Subcommittee.

Assemblyman Daly:

The bill is about the Legislative Commission and the Legislature's ability under the *Nevada Constitution* to not only review, but to suspend or nullify regulations that have gone outside the legislative intent. The Governmental Oversight and Accountability Subcommittee is already allowed and overseen by the powers of the Legislative Commission, so I propose to delete that and make it as clean as possible to have a bill everyone can support.

Chairwoman Diaz:

Are there any questions?

Assemblyman Hansen:

I just want to thank the bill sponsor for going out of his way to talk to everyone about this. With the amendment, I think it is excellent. Having served on the Legislative Commission three times, one of the frustrations is that there is a lack of teeth, and this will add some teeth to it. I am fully supportive of the amended version.

Chairwoman Diaz:

I will entertain a motion to amend and do pass A.B. 403 with the conceptual amendment proposed by Assemblyman Daly.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 403.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Daly will take the floor statement. Next is Assembly Bill 418.

Assembly Bill 418: Revises provisions relating to elections. (BDR 24-750)

Carol Stonefield, Committee Policy Analyst:

Assembly Bill 418 relates to recounting ballots in contested elections. The initial recount of ballots in 5 percent of precincts that voted in the election is deleted. In a recount, all ballots must be included. Paper ballots must be recounted by hand. Ballots originally tabulated by a mechanical device must be retabulated in the same manner. An election may be contested on the following grounds: Illegal or improper ballots were cast in sufficient number to raise reasonable doubt as to the outcome of the election; the defendant or someone working on behalf of the defendant gave something of value for the purpose of manipulating the outcome of the election; there was a malfunction of a device in a manner sufficient to raise doubt as to the outcome of the election.

Voting records of votes cast on mechanical devices must be stored by the clerk and are not subject to inspection unless they are relevant to a contested election. No person may be compelled to reveal under oath how he or she voted.

There are two amendments from Clark County and Washoe County. They are included in the work session document ([Exhibit M](#)). Both propose similar intent language in section 3 of the bill to provide that all ballots must be recounted in the manner in which they were originally cast.

Chairwoman Diaz:

We will take questions or comments from the Committee.

Assemblywoman Bilbray-Axelrod:

The amendments will remove the hand counting of paper ballots. Is that correct?

Kevin Powers, Committee Counsel:

What the proposed amendments would essentially do is return the statute to its original form, which provides that the recount must be conducted in the same manner as the original count. If it were a hand count of paper ballots as the original manner of counting, then you would do

it in that same way. If it were a mechanical count in the original manner, then you would do it that way. Essentially, it is that all ballots must be recounted in the same manner that they were originally counted. If the original count were by hand of paper ballots, you would have to do it again. I do not believe any county clerk uses paper ballots and counts them by hand.

Chairwoman Diaz:

We received a last-minute, clarification amendment, and I would like Ms. Stonefield to educate the Committee ([Exhibit N](#)). It is pertaining to section 4.

Carol Stonefield:

This proposal relates to section 4, subsection 2, paragraph (c). The proposal would read "That illegal or improper votes were cast in the election in sufficient number to cast doubt upon the result of the election generally, or in greater number than [or equal to] the margin between the contestant and the winner of the election [defendant]." The new language would be "... or that legal and proper votes were not counted in a greater number than or equal to"

Chairwoman Diaz:

That would be incorporated into the amendments that Clark County and Washoe County provided.

Assemblyman Ohrenschall:

Who is that amendment from?

Chairwoman Diaz:

That is from Bradley Schrager, who copresented the bill.

Assemblyman Ohrenschall:

At the hearing, some of the testimony said that the bill would for the first time allow someone to go to a court and ask for a hand count of the paper slips from the machines to show who you voted for, so you can compare the electronic screen with the paper printout. I wanted to verify that is our Committee Counsel's interpretation of this bill. That would be a change in this bill. If someone felt there were problems with the voting machines or that the software had been compromised somehow, they could argue it and ask the judge to order a hand count of the slips.

Kevin Powers:

I want to clarify something before I answer your question. The bill deals with two separate procedures. One is a recount. That is where the county has a right to ask the county clerk to actually recount the ballots. That recount is conducted in the same manner as the original count or tabulation. That portion of the bill does not deal with the paper backup on the electronic voting machines. The second portion of the bill deals with when a candidate brings a judicial action to contest the election. If in the judicial action that contested the election the candidate establishes a need to have a hand recount of those paper verifications of the electronic voting machines, then the judge can order that. I just want to make it clear

for the county clerks that this is not requiring them in the ordinary recount to do a hand count of the paper ballots from the electronic voting machines. It is only if a judicial action is brought and the judge orders it.

To answer your question, Assemblyman Ohrenschall, yes, this bill would allow that, but only in that judicial action under the ordinary recount procedures, the recount would be conducted in the same manner as the original count.

Assemblyman Ohrenschall:

The language we are deleting about a hand count is not in existing statute now. There is no right to a hand count. The votes are tabulated through either absentee ballots or electronic ballots. We are not changing things from current law with the proposed amendment that deletes the hand count language. Is that correct?

Kevin Powers:

That is correct. With regard to the recount part, the existing law is the recount is conducted in the same manner as the original count. This amendment would bring it back to the existing law. For the recount provisions, the recount would be conducted in the same manner as the original count. If the original count were done using a machine, the recount would be done using a machine. The only change with regard to hand count comes in the judicial action contesting the election, and only if a judge, based on evidence, orders some sort of hand recount.

Chairwoman Diaz:

I will entertain a motion to amend and do pass Assembly Bill 418 with the amendments discussed.

ASSEMBLYMAN DALY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 418.

ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Bilbray-Axelrod will take the floor statement. Next is Assembly Bill 478.

Assembly Bill 478: Changes the deadline by which a person may register to vote by mail for certain elections. (BDR 24-463)

Carol Stonefield, Committee Policy Analyst:

Assembly Bill 478 was heard in this Committee on April 11, 2017. It provides that the last day to register to vote by mail is the fifth Monday preceding the election day, unless the U.S. Postal Service does not deliver mail that day. In that case, the last day to register to vote

by mail is the first day following the fifth Monday preceding the election, or the first day following the fifth Monday that the Postal Service does deliver mail.

No amendments were offered at the time this work session document ([Exhibit O](#)) was prepared. However, the members should have mock-up amendment 3793 ([Exhibit P](#)), which was received today. The amendment makes some changes throughout. By deleting the phrase "by mail," it removes the limitation of registering to vote by mail. Therefore, the last day to register to vote is pursuant to *Nevada Revised Statutes* (NRS) 293.560. That definition appears in this amendment starting on page 6 in regard to NRS 293.560, and the new language actually appears on page 7. This is the same language proposed for A.B. 478 that was also included in the amendment for Assembly Bill 45, heard earlier today. It provides that during the two weeks immediately preceding the last day to register to vote, the county clerk must expedite the processing of all applications to register to vote that are returned by mail. Nothing in this section authorizes a person to vote in an election before the county clerk has processed the person's application to register to vote and the person is a registered voter. That same language then is amended in section 6. That is NRS 293C.527 which relates to city elections.

Chairwoman Diaz:

I will entertain a motion to amend and do pass Assembly Bill 478.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 478.

ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Hambrick will take the floor statement. Next is Assembly Joint Resolution 5.

Assembly Joint Resolution 5: Proposes to amend the Nevada Constitution to remove the provisions relating to the election and duties of the Board of Regents. (BDR C-60)

Carol Stonefield, Committee Policy Analyst:

Assembly Joint Resolution 5 was heard in this Committee on March 2, 2017. It was brought by Assemblyman Elliot T. Anderson. This joint resolution proposes to amend the *Nevada Constitution* to remove provisions relating to the election and duties of the Board of Regents of the University of Nevada. Existing provisions of the *Nevada Constitution* require the state university to be controlled by a Board of Regents whose duties are prescribed by law. The Board of Regents is required to invest certain funds and the Legislature to provide for the election of the Board and define their duties.

There is a mock-up amendment included in the work session document [page 2, ([Exhibit Q](#))]. It is amendment number 3109. It proposes to make the following changes: The Legislature shall provide by law for the governance, control, and management of the university. The investment of certain funds shall be made by the State of Nevada as required by law. The amendment deletes the proposed language to provide that the State Treasurer would invest the funds. Other technical changes are made to the language of Article 11 of the *Nevada Constitution*. Of course, this would have to return to the 2019 Legislative Session, and then if approved, be placed on the 2020 General Election ballot.

Assemblyman Elliot T. Anderson:

There was some confusion out of the gate about the election issue. In addition to the mock-up, I am proposing to add transitory "whereas clauses" to make it clear that this is only to clarify the constitutional oversight role of the Legislature, not to get rid of elections. It would update the Legislative Counsel's Digest accordingly that under *Nevada Revised Statutes* 396.040 elections will still continue. That needs to be eminently clear on the face of the resolution. Mr. Powers indicated that is something they do as a matter of course. We would also do that as a transitory section as well with "whereas clauses" describing the reasons for the bill to clarify that oversight role provides checks and balances and accountability. With those changes, that will make it clear. I know there were a number of concerns from the Committee about the election issue. It was never my intent to broach that; I believe that regents should be elected. With that mock-up and those changes, I would move that the Committee amend and do pass A.J.R. 5.

Chairwoman Diaz:

To be clear, you are providing that conceptual amendment you just spoke to, and the mock-up. I will accept a motion to amend and do pass Assembly Joint Resolution 5.

ASSEMBLYMAN ELLIOT T. ANDERSON MOVED TO AMEND AND
DO PASS ASSEMBLY JOINT RESOLUTION 5.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

Chairwoman Diaz:

Is there any discussion?

Assemblyman McArthur:

I would like to see these mock-ups, so I will be voting yes out of Committee, but I reserve the right to change my vote.

Assemblyman Hansen:

I just want to compliment the bill sponsor. He did a great job and caught something that I had no idea we were the only state in the Union that does that. It has been a real problem trying to make some reasonable changes with the Board of Regents. My bill was shot down on this issue, but I think this is actually a great step to help get some more balance for even the community colleges. I know that is several steps out, but this is a great thing.

Assemblyman Ohrenschall:

I also want to compliment the bill sponsor. He is very tenacious and very passionate about this bill. I have always been hesitant about interfering with the *Nevada Constitution* in the past. In a past session, I voted against a bill that would have made the regents appointed. In the end, that failed and did not go to the voters. I think this will maintain them as elected officers and not try to have them become an appointed body. I do want to see the final mock-up. I will vote yes out of Committee, but I reserve my right to change my vote on the floor.

Chairwoman Diaz:

I will call for the vote.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Elliot T. Anderson will take the floor statement. Next we will hear Assembly Joint Resolution 10 of the 78th Session.

Assembly Joint Resolution 10 of the 78th Session: Proposes to amend the Nevada Constitution to revise provisions relating to the compensation of certain elected officers. (BDR C-1068)

Carol Stonefield, Committee Policy Analyst:

[Read from the work session document ([Exhibit R](#)).] Assembly Joint Resolution 10 of the 78th Session was heard in this Committee on March 28, 2017. The original sponsors are no longer members of the Legislature. The joint resolution was presented by Assemblyman Paul Anderson, Assemblyman Kramer, and Assemblyman Ohrenschall. This joint resolution proposes to amend the *Nevada Constitution* to require the Legislature to provide by law for the Citizens' Commission on Compensation for Certain Elected Officers, which is empowered to set salaries and benefits for state legislators, constitutional officers, justices, and judges, and the salaries of certain elected county officers.

The seven-member Commission shall study the duties of these elected officials, compare their compensation to public and private employees who have similar qualifications, and fix the salaries and, as applicable, the benefits of these elected officers. Provisions limit the increases and decreases of salaries that may be set by the Commission. Members of the Commission are appointed by the Governor based on recommendations made by various organizations. After initial appointments, terms of office are four years.

The measure proposes to repeal the provision limiting legislator salaries to the first 60 days of a regular legislative session and the first 20 days of a special legislative session. It also proposes to repeal the provision permitting the Legislature to fix salaries by law for legislators, constitutional officers, justices, and judges. There are no amendments pursuant to the provisions of the *Nevada Constitution*; this resolution must be adopted in the same form as it was adopted by the Legislature in the 2015 Session. If it is approved by this Legislature, it will be placed on the 2018 general election ballot.

Chairwoman Diaz:

I will entertain a motion to do pass.

ASSEMBLYMAN OHRENSCHALL MADE A MOTION TO DO PASS
ASSEMBLY JOINT RESOLUTION 10 OF THE 78TH SESSION.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Ohrenschall will take the floor statement. That completes our work session. We will open for public comment. [There was none.] Seeing none, this meeting is adjourned [at 2:52 p.m.].

RESPECTFULLY SUBMITTED:

Julianne King
Recording Secretary

Kailey Taylor
Transcribing Secretary

APPROVED BY:

Assemblywoman Olivia Diaz, Chairwoman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a data sheet regarding [Assembly Bill 226](#), submitted by Doug Goodman, Private Citizen, Sparks, Nevada, referenced by Assemblyman Ira Hansen, Assembly District No. 32.

[Exhibit D](#) is a proposed amendment to [Assembly Bill 226](#), presented by Assemblyman Ira Hansen, Assembly District No. 32.

[Exhibit E](#) is a letter dated April 13, 2017, in support of [Assembly Bill 226](#), to the Assembly Committee on Legislative Operations and Elections, authored and submitted by Bill Chernock, Executive Director, Carson Valley Chamber of Commerce.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 21](#), presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 45](#), presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is a proposed amendment to [Assembly Bill 45](#), presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is the Work Session Document for [Assembly Bill 104](#), presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is the Work Session Document for [Assembly Bill 325](#), presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is the Work Session Document for [Assembly Bill 396](#), presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit L](#) is the Work Session Document for [Assembly Bill 403](#), presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit M](#) is the Work Session Document for [Assembly Bill 418](#), presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit N](#) is a proposed conceptual amendment to [Assembly Bill 418](#), presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau, submitted by Bradley Shrager, Government Affairs, Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, Las Vegas, Nevada.

[Exhibit O](#) is the Work Session Document for Assembly Bill 478, presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit P](#) is a proposed amendment to Assembly Bill 478, presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit Q](#) is the Work Session Document for Assembly Joint Resolution 5, presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit R](#) is the Work Session Document for Assembly Joint Resolution 10 of the 78th Session, presented by Carol Stonefield, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.