

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

**Seventy-ninth Session
April 12, 2017**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Nicole J. Cannizzaro at 3:49 p.m. on Wednesday, April 12, 2017, 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 Nicole J. Cannizzaro, Chair
Senator Tick Segerblom, Vice Chair
Senator Kelvin Atkinson
Senator James A. Settelmeyer
Senator Heidi S. Gansert

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Kevin Powers, Counsel
Janae Johnson, Committee Secretary

CHAIR CANNIZZARO:

We are in work session today and will open with Senate Bill (S.B.) 205. This bill has an attached fiscal note. I would recommend a motion to rerefer this bill to Senate Finance Committee.

SENATE BILL 205: Revises provisions governing the payment of certain expenses of Legislators during a regular legislative session. (BDR 17-533)

SENATOR SETTELMAYER MOVED TO REREFER S.B. 205 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

We will now open the work session on Senate Bill 84.

SENATE BILL 84: Makes various changes relating to ethics in government.
(BDR 23-250)

MICHAEL STEWART (Policy Analyst):

Senate Bill 84 was from the Commission on Ethics, and I have submitted the work session document ([Exhibit C](#)).

KEVIN POWERS (Counsel):

The mock-up is a product of a working group between the Ethics Commission staff and representatives of local government, including the Cities of Henderson and Reno. The Legal Division of Legislative Counsel Bureau provided technical legal drafting assistance. One of the goals of the mock-up is to improve readability and to make it more user-friendly for the public to read and understand the ethics law in *Nevada Revised Statutes* (NRS) 281A. In NRS 281A.440, all the Commission's procedures for both advisory opinions and ethics complaints are included in the same statute that covers five pages. What S.B. 84 does is separate out the advisory opinion procedure from the ethics complaint procedure.

A lot of the language provides for procedural requirements on how an advisory opinion is dealt with and how an ethics complaint is dealt with. Most of those are existing requirements but are now being moved into different places in NRS. There are provisions in the ethics law that deal with local and specialized ethics committees under NRS 281A.350. This bill does not change any of those provisions with regard to cities or counties that have localized or specialized ethics committees. Their statutory rights, privileges and exemptions are not changed by this piece of legislation.

There was a change in the new ethics complaints provisions as the bill originally envisioned; the working group was going to remove the investigatory panels at the early stage of the process and have the Commission handle everything. The mock-up reintroduces review panels at the early stages and gives the panels

power to authorize or approve deferral agreements instead of having a subject of an ethics complaint go through the full adjudicatory process before the Commission. The review panels can review the situation, determine the severity of the situation and determine whether to approve or authorize a deferral agreement, which could include additional training, corrective actions, or other term and conditions. The panels would allow a subject who complied with the deferral agreement to avoid having to go before a full adjudicatory panel of the Commission. Under the ethics complaint mock-up process, this authorized alternative forms of discipline that are progressive in nature to account for the varying degrees of severity of each alleged violation. It gives the Commission on Ethics more opportunity to address each individual violation with different types of progressive discipline. This covers the general changes in the ethics law procedures.

In regard to the independent contractors, some cities, counties and local governments, like school districts, will sometimes use contract employees, essentially who are not traditional public employees. They are under an independent contract to serve in positions that would ordinarily be filled by public employees, for example, principals, administrators, teachers and other types of positions. This bill provides provisions where if a person who is not otherwise a public employee is an independent contractor and meets certain standards, he or she would be considered a public employee only for the purpose of the ethics law. Because they are serving in positions similar to that of public employees, the idea is to capture independent contractors within the ethics law. However, S.B. 84 makes it clear that they are only public employees for purposes of the ethics law and no other law or no other purpose. They would not be captured in law concerning retirement systems, withholding of employee pay or federal income tax issues. If they serve similar positions as public employees they are subject to the same ethics standards, but they are not public employees for any other purpose.

Section 18 of the bill is where the mock-up clarifies the jurisdiction of the Commission. The Commission asked to clarify that it does not have jurisdiction over alleged acts of discrimination or harassment that would be within the subject matter jurisdiction of United States Equal Employment Opportunity Commission or the Nevada Equal Rights Commission. This also provides that the Commission would not have jurisdiction over those types of things if they are within the range of jurisdiction of a State or local agency. The bill makes it clear that the Commission does have jurisdiction over conduct that is independently

sanctionable under the ethics laws, irrespective of whether another commission has jurisdiction over alleged discrimination or enforcement. The idea is if there is alleged discrimination or harassment that goes to the particular and appropriate body, that is where the jurisdiction lies. The Commission can retain jurisdiction if the alleged conduct would violate the ethics law.

Another change in the mock-up is in section 20, which is the code of ethical standards. In the original bill, the Commission suggested including some more expansive or often considered catchall language to expand the type of conduct that would fall within the code of ethical standards. Some objections would be made by local governments; this amendment rectifies the differences between the local governments and the Commission. It takes out the broader language; however, the code of ethical standards is clear if the unethical conduct is directed to the benefit of the public officer or employee or a person to whom the public officer or employee has commitment in a private capacity. That commitment would be to a spouse, relative, member of the household, and a relative in the third degree of consanguinity or affinity; this could be a substantial business relationship or any other substantial relationship that is similar to those relationships. It does provide a slight expansion of the Commission's jurisdiction to ensure the public officer or employee is not benefiting those persons to whom he or she has a commitment in a private capacity.

Section 20.5 of the bill adds to the disclosure and the extension requirements of the law. There are limitations on what public officers and employees can get paid to counsel or represent private clients before Executive Branch agencies. This removes some of the reporting requirements for filing paper documents. However, when matters come before those public officers and employees where that counseling or representing of private parties is a conflict of interest, they are required under section 20.5, the disclosure requirement, to disclose on the record that they have counseled or represented those private parties that raises a potential conflict of interest.

Section 27 deals with the cooling-off restrictions that limit the type of employment that former public officers and employees can do for a certain period of time. There were some clarifications that were requested by the local governments and agreed upon by the Commission. What the Commission wants is to ensure that someone during that cooling-off period does not try to seek or

enter into these prohibited employment or contractual relationships. There is clarifying language to section 27 in the proposed amendment.

SENATOR SETTELMAYER:

Is the document adding some due process rights by having this type of hearings beforehand? I think that was a question brought up by the Nevada Sheriffs' and Chiefs' Association.

MR. POWERS:

Currently, the investigatory panel members of the Commission cannot serve on the adjudicatory hearing, and the proposed amendment restores the review panel. The members of the review panel cannot serve as members of the Commission if the proceeding goes to full adjudicatory hearing. This preserves that existing separation between the review panel and the Commission.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 84.

SENATOR GANSERT SECONDED THE MOTION.

THE MOTIONED CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

We will move to Senate Joint Resolution 12.

SENATE JOINT RESOLUTION 12: Rescinds Senate Joint Resolution No. 1 of the 78th Session of the Nevada Legislature. (BDR R-999)

MR. STEWART:

Senate Joint Resolution (S.J.R.) 12 rescinds S.J.R. No. 1 of the 78th Session. I have submitted the work session document ([Exhibit D](#)).

SENATOR ATKINSON MOVED TO DO PASS S.J.R. 12.

SENATOR SEGERBLOM SECONDED THE MOTION.

SENATOR GANSERT:

I will not be supporting the motion. I went back and reviewed S.J.R. No. 1 of the 78th Session. There were basically two pieces to it; the first half discusses lands where schools are located and checkboard land in some areas. It would make a lot of sense to transfer these areas to the State. The second half was to transfer the rest of federal land to the State over a ten-year period. This could be problematic given the limited resources of the State. I would like to recognize that conservation is important, but because of how S.J.R. No. 1 of the 78th Session was written, I will not support S.J.R. 12 because the first half of S.J.R. No. 1 of the 78th Session refers to lands that we use as Nevadans. Control is an huge issue, not necessarily ownership but the control of lands as well as participation and input regarding the lands the federal government owns.

THE MOTION CARRIED. (SENATORS GANSERT AND SETTELMAYER VOTED NO.)

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CHAIR CANNIZZARO:

The next bill on the work session is Senate Bill 144.

SENATE BILL 144: Revises provisions relating to elections. (BDR 24-300)

MR. STEWART:

Senate Bill 144, brought to us by Senator Pat Spearman, revises provisions relating to elections. There are six main components of this bill. I have submitted the work session document ([Exhibit E](#)).

SENATOR ATKINSON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 144.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS GANSERT AND SETTELMAYER VOTED NO.)

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CHAIR CANNIZZARO:

The next bill on the work session is Senate Bill 447.

SENATE BILL 447: Revises provisions relating to absentee voting. (BDR 24-1125)

MR. STEWART:

Senate Bill 447, relating to absentee voting, was heard on April 3. I have submitted the work session document ([Exhibit F](#)).

SENATOR SETTELMAYER:

I appreciate the amendments which help clear up some of the concerns. I like the idea that if you are not healthy enough to make it to the polls for the primary, odds are you may not be there for the general. This amendment does not put it on autopilot and does this just for the election season. Can all of the amendments be taken at once, or do they conflict?

CHAIR CANNIZZARO:

I do not believe they conflict.

MR. POWERS:

At an initial glance, it does not seem they conflict. They should be able to be reconciled in drafting. If for some reason there is an issue, we could later consult with the Chair and determine how to proceed from there. As I understand it, these amendments do not conflict.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 447.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

The next bill on the work session is Senate Bill 465.

SENATE BILL 465: Authorizes the submission of certain grievances of state employees to an arbitrator. (BDR 23-1042)

MR. STEWART:

We heard S.B. 465 on Monday. It authorizes the submission of grievances to State employees, and I have submitted the work session document ([Exhibit G](#)).

SENATOR SEGERBLOM MOVED TO DO PASS S.B. 465.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS GANSERT AND SETTELMAYER VOTED NO.)

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CHAIR CANNIZZARO:

The next item on the work session is Senate Bill 478.

SENATE BILL 478: Revises provisions relating to certain disciplinary action against state employees. (BDR 23-1043)

MR. STEWART:

Senate Bill 478 requires an appointing authority before taking certain actions against State employees, and I have submitted the work session document ([Exhibit H](#)).

SENATOR SEGERBLOM MOVED TO DO PASS S.B. 478.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS GANSERT AND SETTELMAYER VOTED NO.)

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CHAIR CANNIZZARO:

The next item in work session is Senate Bill 491 which relates to voting machines.

SENATE BILL 491: Makes various changes relating to mechanical voting systems and mechanical recording devices. (BDR 24-491)

MR. STEWART:

Senate Bill 491 authorizes counties whose population is less than 100,000 to lease voting machines and mechanical devices. I have submitted the work session document ([Exhibit I](#)).

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS AMENDED S.B. 491.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

The next item on the agenda is Senate Bill 497.

SENATE BILL 497: Creates the Advisory Task Force on School Leader Management. (BDR S-332)

MR. STEWART:

Senate Bill 497 creates the Advisory Task Force on School Leader Management, and I have submitted the work session document ([Exhibit J](#)).

SENATOR ATKINSON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 497.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

The next item on the work session is Senate Joint Resolution 3.

SENATE JOINT RESOLUTION 3: Proposes to amend the Nevada Constitution to provide certain rights to voters. (BDR C-55)

MR. STEWART:

Senate Joint Resolution 3 was approved by this Committee last week and the amendment to add the words "military service" to section 9 of the proposal was approved. It proposes to amend the Nevada Constitution to provide certain rights to voters. I have submitted the work session document ([Exhibit K](#)). Prior to considering amendments in the work document, the Committee needs to rescind its action on April 3 and then consider the proposed amendments in the work session document.

CHAIR CANNIZZARO:

To clarify, this particular issue does not add vote centers into S.J.R. 3 but rather just provides that if this is something that the State and Legislature were to approve, these would still be permitted if S.J.R. 3 were to become part of the Nevada Constitution. I would entertain a motion to rescind our prior action.

SENATOR SETTELMAYER MOVED TO RESCIND THE PREVIOUS ACTION
TAKEN ON S.J.R. 3.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

I entertain a motion to amend and do pass S.J.R. 3.

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS
AMENDED S.J.R. 3.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

The last item on the agenda is Assembly Joint Resolution 2.

ASSEMBLY JOINT RESOLUTION 2 (1st Reprint): Proposes to amend the Nevada Constitution to require the recognition of all marriages regardless of gender. (BDR C-690)

MR. STEWART:

Assembly Joint Resolution (A.J.R.) 2 proposes to amend the Nevada Constitution to require the recognition of all marriages regardless of gender. I have submitted the work session document ([Exhibit L](#)).

SENATOR ATKINSON MOVED TO AMEND AND DO PASS AS AMENDED A.J.R. 2.

SENATOR SEGERBLOM SECONDED THE MOTION.

SENATOR SETTELMAYER:

I was trying to work on a concept with Assemblyman Nelson Araujo for lay people, but there is not a good way to make it fit. I do support the concept and I accept the amendment. I will be voting yes.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

Seeing no further business, I will adjourn the meeting at 4:34 p.m.

RESPECTFULLY SUBMITTED:

Janae Johnson,
Committee Secretary

APPROVED BY:

Senator Nicole J. Cannizzaro, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	5		Attendance Roster
S.B. 84	C	49	Michael Stewart	Work Session Document
S.J.R. 12	D	1	Michael Stewart	Work Session Document
S.B. 144	E	8	Michael Stewart	Work Session Document
S.B. 447	F	3	Michael Stewart	Work Session Document
S.B. 465	G	1	Michael Stewart	Work Session Document
S.B. 478	H	1	Michael Stewart	Work Session Document
S.B. 491	I	3	Michael Stewart	Work Session Document
S.B. 497	J	6	Michael Stewart	Work Session Document
S.J.R. 3	K	1	Michael Stewart	Work Session Document
A.J.R. 2	L	2	Michael Stewart	Work Session Document