

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

**Eightieth Session
May 21, 2019**

The Committee on Legislative Operations and Elections was called to order by Chair Sandra Jauregui at 4:04 p.m. on Tuesday, May 21, 2019, 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/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Sandra Jauregui, Chair
Assemblyman Ozzie Fumo, Vice Chair
Assemblyman Skip Daly
Assemblyman Glen Leavitt
Assemblyman William McCurdy II
Assemblywoman Brittney Miller
Assemblywoman Daniele Monroe-Moreno
Assemblyman Tom Roberts
Assemblywoman Selena Torres

COMMITTEE MEMBERS ABSENT:

Assemblyman John Hambrick (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Carol Stonefield, Committee Policy Analyst
Kevin Powers, Committee Counsel
Catherine Bodenstein, Committee Secretary
Melissa Loomis, Committee Assistant



OTHERS PRESENT:

None

Chair Jauregui:

[Roll was called.] Welcome, everyone, to the Assembly Committee on Legislative Operations and Elections. As a reminder, please silence your cell phones and laptops. We have a light agenda today, just one item on work session, Assembly Bill 452.

Assembly Bill 452: Revises provisions governing lobbyists. (BDR 17-1103)

I will turn that over to our legal counsel to walk everyone through the amendment.

Kevin Powers, Committee Counsel:

As you know the Legislative Counsel Bureau (LCB) Legal Division is a nonpartisan legal agency. We do not support or oppose any particular piece of legislation, policy, or viewpoint. However, we do provide the Legislature, its committees, and members with objective legal analysis and advice on issues of law including the interpretation and meaning of legislation. That is why I am before you today to talk to you about Assembly Bill 452.

The work session before you has a mock-up amendment [pages 2-17, ([Exhibit C](#))]. The purpose of this amendment is to address some of the issues that were raised in Assembly Bill 121 earlier in the session. This Committee heard that bill. It was sponsored by Assemblyman Daly. Parts of that bill were to codify in statute existing administrative interpretations from the LCB of the statutes governing lobbying, gift-giving, and financial disclosure statements. Those administrative interpretations are in this document that each of the legislators received at the beginning of the session. It is the LCB guide on lobbying and financial disclosure ([Exhibit D](#)). It is the same document that we talked about with A.B. 121 when that bill was before the Committee. I will go through the mock-up briefly. I will identify those portions of the mock-up that deal with interpretations from the LCB that would be codified in statute.

On page 2 of the mock-up [page 3, ([Exhibit C](#))], there are some definitions of "client" and "immediate family." In particular, the prohibition on gift-giving is the lobbyist cannot give a gift to a legislator or a member of his or her immediate family. However, the term "immediate family" is not presently defined in the Nevada Lobbying Disclosure Act in *Nevada Revised Statutes* (NRS) Chapter 218H, so we rely on case law. This would codify that case law interpretation of "immediate family" thereby providing better guidance on the meaning of "immediate family."

Section 4 is a directive to the director of LCB and there is a corollary, a parallel provision, that goes to the Secretary of State for the director and the Secretary of State to work together to interpret the same terms that exist in the Lobbying Act and the Financial Disclosure Act [NRS 281.556 to 281.581, inclusive] so there is uniformity and consistency in interpretation and application of those terms that are in both acts.

Section 5 addresses a significant issue when it comes to the Lobbying Act. The prohibition on gift-giving applies whether or not the Legislature is in a regular or special session. This portion of the bill clarifies that a lobbyist is a lobbyist for the purposes of Chapter 218H of NRS from the first activity that requires them to register as a lobbyist until the next regular legislative session. That is even during the period of the interim; they are still considered to be a lobbyist. However, if you look on top of page 3 [page 4, ([Exhibit C](#))], the only exception is that if that lobbyist ceases all lobbying activities and terminates all representation concerning all clients who are involved with members of the Legislature, then the lobbyist would no longer be subject to the Lobbying Act. However, if during the interim the lobbyist is in any way involved in representing those clients to members of the Legislature, those lobbyists would still be required to comply with the provisions of the Lobbying Act, including filing supplementary registration statements with changes of information.

The next change I would like to discuss is on page 4 [page 5, ([Exhibit C](#))]. This is from Assemblyman Daly's A.B. 121. This clarifies that a person, when he or she is employed and has a bona fide employment relationship or is an independent contractor and providing bona fide services as an independent contractor, those are not activities that need to be disclosed as educational information, meetings, events, or trips and those activities are not gifts under the Lobbying Act. So any activity in which an employer is paying a public officer or legislator for bona fide employment activities and bona fide services as an independent contractor does not fall within the subject of the Lobbying Act and the Financial Disclosure Act.

The next change I would like to discuss is on pages 5 and 6 [pages 6 and 7, ([Exhibit C](#))]. Right now, LCB interprets the Lobbying Act to provide that a lobbyist is subject to the act, but a client of a lobbyist is not subject to the act and a client can provide gifts to a legislator or a member of his or her immediate family. However, if the client independently engages in activities that would make the client a lobbyist, then they do become subject to the act. As long as the lobbyist is representing the client before the Legislature and the client is not engaging in that lobbying activity, they are not a lobbyist. But if the client comes before the Legislature and starts doing their own lobbying, then they would be subject to the Lobbying Act even though they have also hired a lobbyist. That is on page 6 [page 7, ([Exhibit C](#))].

Also on page 6 [page 7, ([Exhibit C](#))] is a definition of a member of the Legislative Branch. It is a broad definition to begin with, but some questions have arisen as to whether it applies to attachés and interns and unpaid positions. It has been the LCB's interpretation that it does. This clarifies that a member of the Legislative Branch includes legislators, all officers and employees of the Legislative Branch, whether paid or unpaid including officers, employees, assistants, attachés, interns, or other staff.

The next major change to discuss is under section 17 on page 7 [page 8, ([Exhibit C](#))]. This change was requested by the Chair and expands the information that lobbyists have to include on their registration statement. It requires them to disclose addresses, telephone numbers, electronic mail addresses of both their business or employer, and the ones they use during the session. The lobbyist also has to provide the full name and complete address of

each client. If the lobbyist's business or employer has multiple clients, the lobbyist has to identify which of those specific clients that the lobbyist is representing, so it is not identifying all of the clients of the lobbyist's business or employer, but the lobbyist has to identify each specific client from that group that the lobbyist represents. There is a parallel provision in section 22 that requires the director of the LCB to include that information, this additional information, in the lists of lobbying that is provided on the legislative website.

The next changes are in sections 18 and 19 on page 8 [page 9, ([Exhibit C](#))]. Section 18 deals with supplementary registration statements. That requires, even during the interim, lobbyists to update their registration information both during the session and during the interim. During the session, they have to update their registration statement within 24 hours of a change. During the interim, they have to update their registration statement within 14 days of that change. And that is any change in information, including change in address, email, or phone number.

Section 19 deals with the notice of termination of lobbying activities. If during the session a lobbyist terminates all of his or her lobbying activity for that session, he or she has to file a notice of termination of session activity. However, that notice of termination of session activity does not remove the lobbyist from the requirements and prohibitions in the lobbyist chapter [of NRS], unless they go to the next step and cease all lobbying activity and cease all representation of all clients to all members of the Legislature.

Section 20 [page 10, ([Exhibit C](#))] clarifies that the Legislative Commission can adopt regulations to provide specific exemptions from the provisions of the Lobbying Act. This mock-up just provides some clarifying language so that regulatory authority is granted to the Legislative Commission.

The remainder of the bill changes the Financial Disclosure Act in a similar manner to what we discussed for the Lobbying Act, so dealing with the employment relationship, which is not a gift or educational informational meeting, event, or trip if it is a bona fide employment relationship or independent contractor relationship.

The final change to discuss is on page 15 [page 16, ([Exhibit C](#))]. This was also in Assemblyman Daly's Assembly Bill 121. This provides that if a person is appointed to public office and that person was not serving in any other public office in that year, then the person only has to disclose gifts and educational information meetings, events, or trips for a 30-day period prior to the date of their appointment. A newly appointed person only has to cover a 30-day period for gifts and educational information meetings, events, and trips. For the rest of the financial disclosure statement, it will cover the prior calendar year, but for those two areas, gifts and trips, it will only be for a 30-day period preceding the date of the appointment.

Thank you, Madam Chair. That covers the mock-up. I am certainly open to any questions.

Assemblyman Daly:

I believe I understand it, but for clarification I want to bounce out there the way I am understanding some of these changes that we have made as far as a lobbyist and his client are concerned. Right now, if the client comes in and restricts his or her activity to testifying in Committee in formal meetings or meeting with his or her actual representative, he or she would not have to register. But if he or she goes around with lobbyists as a client to several different meetings, he or she would have to register because he or she is engaging in lobbying activity. That is the way I am understanding this.

Kevin Powers:

That is correct, Assemblyman Daly. This is really a codification of our administrative interpretation that exists now. That is true. If the lobbyist is here and the client shows up and no one testifies in committees and interacts with the lobbyists, then that client does not have to register because they are not engaging in lobbying activity as defined by the Lobbying Act. But if that client, as you said, goes around with the lobbyists to individual legislators and starts lobbying for legislation, then that client is engaging in independent lobbying on behalf of themselves or their interests and then they are going to have to register as a lobbyist because they are engaging in that type of activity. This bill clarifies that.

Assemblyman Daly:

There is one other clarification I wanted to make for everybody regarding gifts. So the client is technically not a lobbyist, and they are not prohibited from giving gifts. But if you go to the financial disclosure, you have the interested party or interested person portion. So maybe you could accept that gift, but you would have to disclose it on your financial disclosure. Under my understanding, that is currently how it works because either you know or you are supposed to know that they are an interested party under the financial disclosure section. That is all the questions I have.

Kevin Powers:

That is correct. That is the current state of the law, and this bill just clarifies and codifies that interpretation that although the client can provide a gift to a legislator, if the gift exceeds the annual threshold of \$200 in the aggregate, then the legislator would have to disclose that gift on the financial disclosure statement. It is not a prohibited gift, but it is a gift that requires disclosure.

Assemblyman Roberts:

I have a question regarding the travel if it is a bona fide connection to your employment or through a subcontractor. Could you give me an example of what that would be? Does that mean that if I take a trip during the interim, but I actually work for a company or am an independent contractor that is registered as a lobbyist, but I work for them, then I do not have to report that? Is that what that means there? I am trying to figure that out.

Kevin Powers:

The idea here is, as we know, because this is a citizen legislature, legislators have to have outside employment, whether as employees or as independent contractors. When legislators

are engaging in their private activities and their employers or their clients send them to an event, meeting, or on a trip to carry out their employment duties or their independent contractor duties, then that is not going to be subject to the provisions of the Lobbying Act and the Financial Disclosure Act.

For example, say you—a legislator—were an accountant, and one of your clients had you travel to somewhere out of state to do an audit. That client would pay for your travel expenses. That would not be considered a gift, and it would not be reportable as an educational or informational meeting, event, or trip because that client is paying you as an accountant to go out of state and take that business trip. It is the same as if you were in an employment capacity as a travelling salesperson, and you had to travel throughout the state or out of the country. Those trips would not be gifts from your employer. Those trips would not be reportable as educational or informational meetings, events, or trips because you have a bona fide employment relationship. As long as you are engaging in that activity in your private capacity as an employee or independent contractor, it is not going to be subject to the Lobbying and Financial Disclosure Acts.

By contrast, if you are that same accountant and a mining company sent you on a trip because they wanted you to go to a mining conference to learn about their interests, you would not be traveling as an accountant in your private capacity. You would be going as a legislator getting that information and then you would have to report that on your financial disclosure statement as an educational or informational meeting, event, or trip.

Assemblyman Roberts:

So, let me get this right. If I were still working with the Las Vegas Metropolitan Police Department, and I were taking a leave of absence and they sent me to a school or something connected to my employment, under current law, if I were a legislator and still employed by them, I would have to report that. Would this exclude that?

Chair Jauregui:

No, and this actually—you know the green ethics book ([Exhibit D](#)) that you received at the beginning? We are just codifying some into state law, but Mr. Powers, will you explain?

Kevin Powers:

The Chair is correct. The administrative interpretation of the LCB now is that when a legislator goes on a trip in his or her private capacity and his or her employer sends them on that trip, that there is consideration between the legislator and the employer. That consideration takes it out of the scope of the Lobbying and Financial Disclosure Acts. However, in order to ensure that the administrative interpretation is easy to find and apply, this bill will put it into statute, so it is clear; it is a matter of law; and it does not have to necessarily merely be an administrative interpretation. Again, administrative interpretation is not binding law; it is just the agency's interpretation that is entitled to deference. By putting it into statute, it is binding law, it governs the situation, and the issue is then clear and resolved.

Assemblyman McCurdy:

Thank you, Mr. Powers, for presenting this in such a way that we can actually understand what is going on. My question is around the idea that there would possibly be—say as a legislator, you would take a trip outside of the country and it is sponsored by, obviously, that country or their ministry of foreign affairs. We would be required to disclose that although they are not a lobbying agent here in our state. Would we still be required to disclose that and be in the clear? How would that work? If there are any prohibitions to that, what are they?

Kevin Powers:

There are two laws that we are dealing with. The lobbying law creates prohibitions on gift-giving by lobbyists. However, the lobbying law has an exception for educational and informational meetings, events, or trips. In addition, there is the financial disclosure law that also has a provision dealing with educational and informational meetings, events, and trips. So the answer to your question is, when a foreign country sends a legislator on an investigative fact-finding trip, that trip is permitted—it is not prohibited—but as you mentioned, the legislator has to disclose the aggregate value of everything he or she received on that trip. So it is not a prohibited trip, but it is required to be disclosed on the financial disclosure statement.

Chair Jauregui:

Thank you, Mr. Powers. Seeing that this is a work session, I will entertain a motion to amend and do pass Assembly Bill 452.

ASSEMBLYWOMAN MONROE-MORENO MADE A MOTION TO
AMEND AND DO PASS ASSEMBLY BILL 452.

ASSEMBLYMAN FUMO SECONDED THE MOTION.

Is there any discussion on the motion?

THE MOTION PASSED. (ASSEMBLYMAN HAMBRICK WAS ABSENT
FOR THE VOTE.)

I will assign that floor statement to Assemblyman Daly.

The next item on the agenda is public comment. Is there anyone who wishes to give public comment? Seeing no one, Committee, I will see you on Thursday at 4 p.m. We are adjourned [at 4:23 p.m.].

RESPECTFULLY SUBMITTED:

Catherine Bodenstein
Committee Secretary

APPROVED BY:

Assemblywoman Sandra Jauregui, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Assembly Bill 452](#), dated May 21, 2019, presented by Kevin Powers, Committee Counsel, Legal Division, Legislative Counsel Bureau.

[Exhibit D](#) is a document entitled "Guide for the Legislative Branch of Nevada State Government: Lobbying and Financial Disclosure: Gifts, Educational and Informational Meetings, Events and Trips and Related Matters," dated January 11, 2017, prepared by Legal Division, Legislative Counsel Bureau, submitted by Kevin Powers, Committee Counsel, Legal Division, Legislative Counsel Bureau.