

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

**Eightieth Session  
April 12, 2019**

The Senate Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 3:51 p.m. on Friday, April 12, 2019, 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 James Ohrenschall, Chair  
Senator Yvanna D. Cancela, Vice Chair  
Senator Marcia Washington  
Senator Heidi Seevers Gansert  
Senator Keith F. Pickard

**STAFF MEMBERS PRESENT:**

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

CHAIR OHRENSCHALL:

I will open the work session on Senate Bill (S.B.) 50.

**SENATE BILL 50**: Revises provisions governing the temporary limited appointment of persons with disabilities by state agencies. (BDR 23-230)

MICHAEL STEWART (Committee Policy Analyst):

Senate Bill 50 was heard on March 11 by the Department of Employment, Training and Rehabilitation from the work session document ([Exhibit C](#)). The conceptual amendment will adjust the effective date from July 1, 2019, to October 1, 2019.

SENATOR CANCELA MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 50.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR OHRENSCHALL:

The next bill on work session is S.B. 123.

**SENATE BILL 123**: Revises provisions relating to elections. (BDR 24-726)

MR. STEWART:

Senate Bill 123 was heard on March 6 from the work session document ([Exhibit D](#)). There is a conceptual amendment attached that was prepared by the Legal Division.

KEVIN POWERS (Committee Counsel):

The first proposal is from the clerks and registrars to amend the Election Day registration provisions for a person who registers on Election Day. The person would be casting a full provisional ballot for all the races and offices. The full provisional ballot would be subject to verification after the election. The vote would not be counted until it is verified that the voter was eligible to register to vote.

The second proposal specifies sections 8 and 24, directing the county clerk to establish procedures approved by the Secretary of State to verify before counting a provisional ballot that the voter was entitled to register to vote in person on the day of the election and legally cast the ballot. This is the verification procedure that follows the casting of the ballot on Election Day.

The third proposal is to amend and delete sections 11 and 27. These sections authorize the county and city clerks to extend the period from early voting through the Sunday before Election Day. These provisions would be removed from S.B. 123. The early voting period and the days of early voting in existing law would remain the same.

The next item would amend section 14 to clarify the period wherein the county and city clerks must provide a preregistered voter with a voter identification card after the voter reaches his or her eighteenth birthday. This will establish

the clerks to provide the voter registration card as soon as practical instead of immediately. This will give the clerks the opportunity as the voters turn 18 to provide these individuals with a voter registration card. However, the clerks must immediately add those voters to the Statewide voter registration list once the individuals become eligible on his or her eighteenth birthday.

Item 5 is extending the period for the canvass of election returns by the county and city clerks and Board of County Commissioners after the election. Currently, the canvass of returns at the county level has to be done by the sixth working day. The clerks recommended it be extended to the fourteenth calendar day. This will have a downstream of consequences on other dates in the postelection process—in particular the election contests, election recounts, and the statewide canvass by the Nevada Supreme Court and the Secretary of State. In presidential election years, there are deadlines in federal law for completing election contests involving presidential electors.

Also, federal law establishes deadlines for holding the meeting of presidential electors where they cast their ballots in the Electoral College for the President of the United States. Because of those downstream consequences, all of these dates and deadlines have to be adjusted based on the Legal Division's current calculations. The Legal Division cannot extend the county canvass to the fourteenth calendar day following the election. The greatest extension the Legal Division can give is the tenth calendar day following the election. The amendment will extend the Board of County Commissioner's canvass of election returns to the tenth calendar day following the election.

SENATOR CANCELA MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 123.

SENATOR WASHINGTON SECONDED THE MOTION.

SENATOR GANSERT:

I will be voting no on S.B. 123. Nevada's system is set up county by county and in some cases city by city. The county and city clerks establish these procedures. It takes overnight to recognize if someone is registered in one county versus another county. Nevada is part of a national database for registration, but not all states are part of this database. Nevada syncs up with the Electronic Registration Information Center (ERIC) once a year. I think Legislators want to make sure there is no voter fraud.

CHAIR OHRENSCHALL:

During the presentation, it was compelling with the lists from the last general election of the thousands of people who had registered between the cutoff of registration and Election Day. These were qualified electors who wanted to vote but could not because of the deadline. Students testified how busy they are during election times because of midterms and forget to register to vote. The clerks testified that the full provisional ballot will provide security if someone comes to register and vote on Election Day.

The clerks would be able to check the provisional ballot and make sure that no one had voted in the county and somewhere else. Since ERIC is not nationwide, there are small numbers of hits when someone is trying to vote in more than two states in the same election. Senate Bill 123 has enough protection for the public and clerks to allow people to participate in the democratic process without missing it because of a deadline.

SENATOR GANSERT:

I agree, we do want as many people as possible to register to vote. If this issue was narrowed down to the same day and overnight checks conducted through the Secretary of State, it would strengthen the measure. I do agree with the provisional measure and it helps with the provisional ballot.

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

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MR. STEWART:

Senate Bill 129 was heard on March 13 with several amendments offered from the Commission on Ethics included in the work session document ([Exhibit E](#)).

**SENATE BILL 129**: Makes various changes relating to ethics in government.  
(BDR 23-191)

CHAIR OHRENSCHALL:

Mr. Stewart, please go over the amendments to S.B. 129, and the Commission on Ethics is here if the Committee has any further questions.

MR. STEWART:

On page 2 of the work session document, [Exhibit E](#), the amendments were provided by Yvonne Nevarez-Goodson from the Commission on Ethics. Starting on page 1, the amendments go over the changes proposed to S.B. 129.

MR. POWERS:

I will go over the amendments that were offered after the meeting. On page 14, section 8 would require a sheriff, marshal or police officer upon the request of the Ethics Commission to serve all processes on behalf of the Ethics Commission. The amendment would remove section 8 from the bill. On pages 14 and 15, section 10 would create a new prohibition in the ethics law that would prohibit a public officer who approves, disapproves, voted or otherwise acted on a matter for one year thereafter from receiving any unwarned privileges, preferences, exemptions or advantages related to the matter he or she voted on. The amendment would remove section 10 from the bill.

Section 18 amends the existing definition of commitment in a private capacity to the interest of others. The bill proposes "commitment" would include any commitment that a public officer or employee has in fiduciary capacity, such as the board of directors member or any other officer in a fiduciary capacity. The bill will also expand the definition to cover any relationship that the public officer or employee had in a private capacity as a volunteer. The amendment would remove those provisions from section 18. However, there are some technical drafting revisions proposed in the Commission's amendment from section 18. The changes to subsections 6 and 7 dealing with fiduciary capacity and volunteers would be removed from the bill.

Section 46 would establish new statutory standards governing State and local agency counsel as they represent public officers and employees in ethics complaints. The amendment would remove section 46 from the bill and existing law would remain in place. Under existing law, State and local agencies provide legal representation to their employees and officers against ethics complaints. The legal representation is governed by the *Nevada Rules of Professional Conduct* which governs all attorney conduct. Removing this from the bill would mean that those agencies' counsel would continue to represent their public officers and employees under the standard rules of Nevada's Professional Conduct.

Under section 47, existing ethics law prohibits anonymous complaints but allows the Commission to protect the identity of the person who is filing the ethics complaints to protect individuals from retaliation from public employees or other potential harms. The bill would allow the Commission to consider anonymous complaints where the complaint is filed by someone who does not disclose their name. This bill would remove this provision and existing law would remain. There would be no anonymous complaints, but the Commission could still protect the identity of the person who filed the complaint in order to protect them from retaliation from their public employer or other potential harms.

CHAIR OHRENSCHALL:

The additional amendments that are not in the work session document are from various local governments that came to us with these concerns.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 129.

SENATOR CANCELA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MR. STEWART:

Senate Bill 450 was heard on April 10 from the work session document ([Exhibit F](#)).

**SENATE BILL 450**: Revises provisions relating to recall elections. (BDR 24-71)

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 450.

SENATOR CANCELA SECONDED THE MOTION.

SENATOR GANSERT:

I will be voting no on S.B. 450. Nevada is a small state, and partisanship was at a lower level in 2004. The recall during the last biennium was driven by partisan politics, and this bill is a reaction to that. What concerns me is the upfront

payment cost for the verifications. There is a 5 percent verification right now, and this bill proposes to make a 100 percent verification unless it is Statewide. The amendment is proposing 25 percent. Having to pay an upfront deposit would have a chilling effect on whether someone could file a petition.

Other states look at grounds for recalls including incompetence, misconduct and mental deficiencies. I would be supportive of a measure that was looking at grounds and would not set up significant financial obstacles for someone not able to file a petition. The amendment does have a bypass to apply for individuals who are not able to pay a deposit. I believe this is another hurdle. It is important for the citizens to recall someone if they feel it necessary. I do think looking at grounds for recall versus the open method would be better for Nevada.

CHAIR OHRENSCHALL:

I do appreciate you bringing up the amendment giving a bypass for putting up the deposit if the person is not financially able to.

THE MOTION CARRIED. (SENATOR GANSERT VOTED NO.)

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CHAIR OHRENSCHALL:

We have one piece of unfinished business to address on S.B. 452.

**SENATE BILL 452**: Revises provisions relating to elections. (BDR 24-1141)

MR. STEWART:

There was a proposed amendment for S.B. 452 that was heard on April 3, and it relates to absentee ballots. For those that sent out a large number of absentee ballots, this is changing some dates for when the notifications are sent out—the last days those can be mailed out and notice to the local election office. The Committee passed an amendment that would require a notification indicating that the forms received in mass mailing were not necessarily from the Secretary of State or the County Clerk. The Committee has received an amendment that would request to amend S.B. 452 to authorize a voter who receives an absentee ballot to return that ballot to a polling place during early voting.

If the Committee would like to pursue S.B. 452, it would have to be brought back to this Committee with a reconsideration on their action to amend and do pass from April 30.

CHAIR OHRENSCHALL:

I would accept a motion to reconsider the action on S.B. 452. The potential amendment could be added in terms of someone returning his or her absentee ballot at a polling place during early voting.

SENATOR GANSERT:

If you walk into a polling place, you can hand your ballot in?

CHAIR OHRENSCHALL:

Yes. That would be an option along with mailing in the ballot.

SENATOR GANSERT MOVED TO RECONSIDER THE ACTION WHEREBY  
S.B. 452 WAS AMENDED AND DO PASSED.

SENATOR CANCELA SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR PICKARD WAS EXCUSED FOR THE  
VOTE.)

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CHAIR OHRENSCHALL:

With possession of S.B. 452, I would accept a motion of amend and do pass with the amendment and the portions of the bill to allow voters to turn in their absentee ballots at an early voting location during early voting, along with the amendment from before with a disclaimer on the third parties' solicitations of an absentee ballot that is not from the election department or the Secretary of State.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 452.

SENATOR CANCELA SECONDED THE MOTION.



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THE MOTION CARRIED. (SENATOR PICKARD WAS EXCUSED FOR THE  
VOTE.)

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CHAIR OHRENSCHALL:  
I will adjourn the meeting at 4:28 p.m.

RESPECTFULLY SUBMITTED:

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Janae Johnson,  
Committee Secretary

APPROVED BY:

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Senator James Ohrenschall, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	2		Attendance Roster
S.B. 50	C	1	Michael Stewart	Work Session Document
S.B. 123	D	5	Michael Stewart	Work Session Document
S.B. 129	E	18	Michael Stewart	Work Session Document
S.B. 450	F	2	Michael Stewart	Work Session Document