

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

**Eighty-first Session
May 25, 2021**

The Senate Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 3:45 p.m. on Tuesday, May 25, 2021, Online and in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James Ohrenschall, Chair
Senator Roberta Lange, Vice Chair
Senator Heidi Seevers Gansert
Senator Carrie A. Buck

COMMITTEE MEMBERS ABSENT:

Senator Nicole J. Cannizzaro (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Jason Frierson, Assembly District No. 8
Assemblywoman Sarah Peters, Assembly District No. 24

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Bryan Fernley, Counsel
Barbara Young, Committee Secretary

CHAIR OHRENSCHALL:

I welcome Assembly Speaker Jason Frierson who will present Assembly Bill (A.B.) 441.

ASSEMBLY BILL 441: Revises provisions governing Legislators. (BDR 17-922)

ASSEMBLYMAN JASON FRIERSON (Assembly District No. 8):

I am here to present A.B. 441, which serves as a mechanism to handle the financial and practical burdens of appointed members of the Legislature who are appointed shortly before or during a legislative session. *Nevada Revised Statutes* (NRS) 294A.300 states it is unlawful for a member of the Legislature to solicit or accept any monetary contribution or solicit or accept a commitment to make such a contribution for any political purpose during a specified period of time before and after the legislative session. Generally, a Legislator may not receive or solicit a contribution during the period beginning 30 days before and ending 30 days after a regular session; and 15 days before and 15 days after a special session. We refer to this as the blackout period. Additionally, campaign funds may not be used for personal use, which is defined as an expense that would exist irrespective of whether that person was a Legislator. However, many expenses such as paying rent for living space in Carson City during the session exist only because a person is a Legislator. This expense qualifies as an allowable use of campaign funds.

Serving in the Legislature is an honor and a privilege, but I do not think it is lost on this Body that we are a citizen's Legislature doing the people's work with little compensation. In Nevada, our Legislators earn \$164.69 per day for the first 60 days of our session, which puts us in a salary range of \$9,881.40 every other year. According to the National Conference of State Legislatures (NCSL), the average yearly salary for lawmakers across the Country is \$33,500. For Nevada Legislators, particularly those of us who represent southern Nevada, we must relocate 420 miles away from our districts to do the people's work with limited financial means. As a result, we are often forced to use our leftover campaign funds to meet the real financial burden of serving our State.

Legislators appointed during blackout periods do not have unused campaign funds and cannot accept or solicit monetary contributions during that blackout period. In these instances, the Legislator personally pays for unreimbursed expenses required to move and maintain a living space in Carson City during session. I brought A.B 441 forward for these reasons.

Unfortunately, for those who have been here for the last few sessions, we have lost several members in both Chambers near or during session. Legislators appointed during blackout periods are forced to use personal income to serve as members of this Body. According to NCSL, Nevada is one of 29 states placing restrictions on giving and receiving campaign contributions during a legislative

session. Fifteen of these states have a general ban on all contributions, and the fourteen remaining states only apply a ban on contributions from lobbyists and political committee contributions. A small number of states prohibit lobbyists from making campaign contributions anytime, including during a legislative session.

This bill will allow legislative caucuses and fellow Legislators the ability to contribute to an appointed member during the blackout period. In addition, the bill will give Leadership in the Majority and the Minority caucuses the ability to reassign bill draft requests (BDR) of members who have left our Body.

I will now walk through the provisions of A.B. 441. Section 1 of the bill addresses what happens to bill drafts when a vacancy occurs after the general election and before the start of the regular session. If the vacancy is in the Majority Party, the Speaker or the Majority Leader may assign some or all of the former members remaining BDRs to another member or Standing Committee. If the vacancy is in the Minority Party, the Assembly or Senate Minority Leader may assign a former member's BDRs to another member. The Leaders must submit lists of the reassigned BDRs to the Legislative Counsel by the eighth day of session, and they may revise the list no later than the fifteenth day. Any reassigned BDRs are in addition to the BDRs a Senate or Assembly member would normally have.

Section 2 of the bill concerns campaign contributions from members who are appointed to fill a vacancy during a time when a Legislator is prohibited from soliciting or accepting contributions during the blackout period. Under this bill, a member who is appointed may solicit and accept contributions during the blackout period from a legislative caucus or a fellow Legislator only. Those contributions are also capped at \$10,000 for a regular session and \$1,200 for a special session. The contributions may not be used to cover expenses other than the expenses for moving, travel and housing over the supplemental allowance they receive.

Section 4 of the bill concerns the meaning of the term "personal use" of campaign contributions. Under existing law, it is unlawful for candidates and public officers to spend contributions for personal use. This bill specifies personal use does not include paying for a Legislator's moving, travel and housing expenses over and above the supplemental allowance they are entitled to receive.

Section 5 addresses the disposal of campaign contributions. Under existing law, if a candidate is elected and has unspent campaign funds, the money must be disposed of by returning it to their contributors, using it in their next campaign, contributing to another campaign or other methods. This bill authorizes that the candidate elected to the Senate or Assembly may dispose of campaign contributions by contributing to a member who is allowed under section 2 to accept contributions because they were appointed to fill a vacancy.

Sections 6 through 9 are conforming changes.

Section 10 is the effective date on which the measure would take effect upon its passage and approval.

In conclusion, it is truly an honor to serve in this institution. The reality is our appointed members make a significant sacrifice to be a member of this Body with very short notice. This measure is a reasonable attempt to ensure we ease any financial burden to that process and remove barriers that hinder those from serving in this Body.

In general, one should not have to be independently wealthy to serve in a citizen's legislature. If an individual is fortunate enough to apply and be appointed to replace a Legislator during a blackout period, that privilege should not only be bestowed upon the wealthy. In the spirit of a citizen's legislature, we should be able to accommodate any person who is qualified and selected by an appointing authority to serve in this Body without regard to whether or not that individual has the means, independent of the resources from caucus members or caucuses to be able to serve.

CHAIR OHRENSCHALL:

We are fortunate that when vacancies do occur, we have citizens in those districts who are willing to come forward. This legislation will ease the financial burden for those appointed Legislators to represent their communities.

SENATOR SEEVERS GANSERT:

You used the term organization whose primary purpose is to provide support for Legislators, and caucus was also mentioned. The language needs to be firmed up.

ASSEMBLYMAN FRIERSON:

The intention is for "caucus" to be changed to "caucuses." The language was drafted with the request that caucuses and members be allowed to contribute. It is capped at \$10,000 collectively from all sources.

SENATOR SEEVERS GANSERT:

Section 2 is confusing because one subsection tracks to another subsection. It says a Legislator shall not accept monetary contributions exceeding the \$10,000 or the \$1,200 limit. It is broad language, and that section does not restrict it to only those who have been appointed. Does that mean any Legislator or only someone who has been appointed and has not had the opportunity to raise money outside of expenses for authorized reimbursable amounts?

ASSEMBLYMAN FRIERSON:

The intention is for this to apply to newly appointed members, not sitting members.

SENATOR SEEVERS GANSERT:

Section 1 talks about a Legislator who is appointed to fill a position. Subsection 1 of NRS 294A talks about someone who has been filling the position. In section 2 of the bill, the language is broader and could potentially be applicable to any Legislator. It does mention limits and how the funds can be spent, which makes sense. I am not sure if those are working together or if that opens it up to other Legislators who have not been appointed. I will ask the Legal Division about that.

ASSEMBLYMAN FRIERSON:

If you look at section 2, subsection 1 says. "a Legislator who was appointed to fill a vacancy," and subsection 2 says "a Legislator," but within the body of that, it refers back to subsection 1. Section 2, subsection 2, paragraphs (a) and (b) refer back to subsection 1, which expressly states a Legislator who was appointed to fill a vacancy. To the extent legal would feel that would need to be clarified, it is certainly the intent.

SENATOR SEEVERS GANSERT:

I have seen those references as well. It goes back and forth so the language is not specific enough to be referring to the individual who was appointed to fill

the vacancy. The idea in general is fine, but the language is confusing. I want to make sure your intent is clear both on the record and in the document.

CHAIR OHRENSCHALL:

Mr. Fernley, do you feel the language needs to be clarified?

BRYAN FERNLEY (Counsel):

Under NRS 294A.300, a Legislator is prohibited from accepting contributions during a blackout period. Section 2, subsection 1 of the bill creates an exception that would authorize a Legislator who is appointed to fill a vacancy during the blackout period to be allowed to accept contributions. Section 2, subsection 2 does not create an additional exception to accept monetary contributions. It is referring to monetary contributions solicited and accepted pursuant to Section 2, subsection 1, paragraph (a).

SENATOR SEEVERS GANSERT:

We are allowing Legislators who are appointed to accept funds. Does the \$10,000 go against the limits if they were to run a campaign? Our campaigns for the Senate run every four years and the Assembly every two years. An Assemblyperson who fills a position would typically run for election in the same cycle. If someone donated \$1,000, would that count against the maximum of \$10,000 because it was during the same period?

ASSEMBLYMAN FRIERSON:

I would defer to Legal because the bill also requires that the individual who is appointed return any unspent funds, so we are only talking about caucuses and individual members and their contributions. If the person who is appointed to fill a vacancy were subsequently going to run again, it would count.

SENATOR SEEVERS GANSERT:

We all fill out standardized forms. If appointed Legislators accept money and spend it, would they be required to fill out a form to attach to the regular quarterly and annual report?

ASSEMBLYMAN FRIERSON:

This question also came up in the Assembly. The individuals would have to file standard reports.

MR. FERNLEY:

These contributions would be considered campaign contributions. They would be reported in the same manner as any other campaign contributions and subject to the same limits.

SENATOR LANGE:

If appointed Legislators have leftover funds they will return, would they be reported in the same way elected Legislators report a return contribution?

MR. FERNLEY:

That is correct, because these would be campaign contributions. The other provisions of law that apply to campaign contributions would also apply to these funds. The monetary contributions would be reported in the same fashion.

CHAIR OHRENSCHALL:

I will close the hearing on A.B. 441 and open the hearing on A.B. 365.

ASSEMBLY BILL 365 (1st Reprint): Revises provisions relating to governmental administration. (BDR 23-133)

ASSEMBLYWOMAN SARAH PETERS (Assembly District No. 24):

A number of federal laws have been enacted to protect the rights of workers and those seeking employment. The first landmark legislation, the Civil Rights Act of 1964 was followed by other statutes including the Age Discrimination in Employment Act of 1967, Americans with Disabilities Act, Equal Pay Act of 1963, Uniformed Services Employment and Reemployment Rights Act and several others.

Nevada has incorporated these laws and expanded upon federal legislation in its public policy to protect workers' rights to seek, obtain and hold employment without discrimination, distinction or restrictions because of race, religious creed, color, age, sex, disability, sexual orientation, gender identity or expression and national origin or ancestry. Subsequently, the State has adopted policies and practices to ensure fair hiring and employment practices meet these federal and State standards, including investigating complaints relating to such matters.

Despite the State's proactive policies regarding discrimination in the workplace, gaps remain in our ability to gauge the effectiveness of these efforts in retaining

a diverse workforce. Currently, there is no process for tracking or validating complaints associated with an office-related culture that may be toxic or inhospitable to employees, particularly those with diverse backgrounds. Without this data, there is no way to track non-federally protected complaints or allegations to determine if a systemic problem exists or assess how to remedy it. Additionally, there is no established standard for training regarding diverse employee retention and implicit bias.

Our State has incredible diversity, as is reflected in this body. Some State divisions continue to lack the diversity reflective of this State's population. We adopted hiring practices that are intended to increase diversity in applicants; however, we continue to miss the mark as it relates to retention of State employees with diverse backgrounds. It has been the policy of this State to direct non-federally protected complaints to each division's human resource department to handle. There has not been a formal review of this process or the complaints and best practice policies implemented due to those complaints.

In the last year, our Country has been reflecting on disparities among people of color and their white counterparts. We have continued to see elevated disparities between women and men in the workplace exacerbated by the pandemic conditions and reflective of the different needs of women in the workforce. Our State workforce has a history of being a place where people love to work and retention was among the highest of any employment field. However, in many departments, retention at the State is one of the biggest challenges our agencies are dealing with.

I reflected on my own challenges in the traditional work environment. I have been the primary provider for my family, which required three maternity leaves. Flexibility to maintain my milk production during our three nursing journeys was necessary while I attempted to go back to work as normal. This included mandatory travel to meet client deadlines, scheduled meetings during my pumping times, and meetings scheduled at buildings that were not equipped to meet the needs of a pumping mother. I went to meetings, dinners and met deadlines when my body and baby wanted me to be home. Fortunately, I had immense support from my boss, clients and employees of this State who offered accommodations multiple times. Not everyone gets that level of support, and it is not mandatory.

Whether it is a parent needing to pick up their child, wanting to attend a midday matinee of their child's pageant performance or dealing with undiagnosed health issues, these are unprotected scenarios. Unsolicited comments or questions can result in passive-aggressive comments, actions and attitudes from management and colleagues, leaving employees wondering if they want to work in such an environment. There are also issues of micro-aggressions. They are defined as a statement, action or incident regarded as an instance of indirect, subtle or unintentional discrimination against members of a marginalized group, such as a racial or ethnic minority. These are subtle and often not recognizable to someone who lacks experience in identifying racial discrimination.

Assembly Bill 365 declares it is the public policy of this State that all individuals employed by this State be afforded respect, dignity and equity in the workplace. The bill requires the departments of the State government annually prepare and submit a report to the Governor and the Legislature concerning equity in the workplace. This report is to include a summary of each complaint filed by an employee alleging conduct that is not unlawful, but against the declared public policy of the State, including actions taken in response to such a complaint.

The bill also requires that the Administrator of the Division of Human Resource Management of the Department of Administration evaluate the effectiveness of any policy of the Division intended to encourage equity in the workplace for persons of color and persons of marginalized identities and prepare a report to submit to the Governor and the Legislature concerning the results of the evaluation. The bill defines a marginalized identity as an identity that causes or has historically caused a person of such an identity to be disproportionately subject to discrimination, harassment or other negative treatment as a result of the identity.

Finally, A.B. 365 requires the Personnel Commission to adopt regulations for training of supervisors and managerial employees concerning implicit bias. Last summer, we declared racism a public health crisis and have self-reflective work to do to ensure we are setting the standard in the State to be as anti-racist as possible. This bill is a small step in getting much needed data to meet this goal and retain a high-quality diverse workforce that feels supported and appreciated.

SENATOR SEEVERS GANSERT:

There is no process to file a complaint. There is a process in the State for a lawful complaint, but not one that falls outside of those boundaries. Also, I do

not see anything about retaliation. How do you protect someone from retaliation?

ASSEMBLYWOMAN PETERS:

There is no formal process. It is an adopted process on how to manage complaints in each division that are not federally protected issue areas. We want to bring consistency across the board on how those complaints result in policy changes to create a better, less toxic culture. I want to elevate those complaints concerning culture to the point where we are talking about culture change. In this bill, we would continue to have those processes controlled by each division and handled complaints in-house. The resulting policy changes and implementations would then be elevated to the Division of Human Resources Management of the Department of Administration for evaluation to determine if that is a policy we want to implement across the State.

SENATOR SEEVERS GANSERT:

I laud the idea of what you are trying to accomplish, but it just results in a report. There should be a formal reporting process so each division has the same sort of reporting form or guidelines. In the end, the reports need to be compiled and confidentiality ensured. Formalizing the process and providing protection would eliminate retaliation. The direction is loose.

ASSEMBLYWOMAN PETERS:

The State is migrating to the SMART 21 System, which is an online human resource system with the capacity to take on a node that would be able to compile these comments, keep them confidential and allow for us to aggregate them on the other side. It is the intention of the Department of Administration to do that piece; however, it would add a fiscal note.

CHAIR OHRENSCHALL:

Perhaps the work on Senate Bill 51 would apply here, and language would not have to be added. Some of those protections for victims who are complaining about harassment were in that bill.

SENATE BILL 51: Revises provisions relating to sex-or gender-based harassment in the Executive Department of the State Government. (BDR 23-243)

SENATOR SEEVERS GANSERT:

I agree with you, Senator. This could potentially be amended into that bill, but I am concerned about the lack of process and protections. If it is against the law, there is an investigation process. False claims could be filed and investigated, and that would be another potential issue with this bill.

SENATOR BUCK:

How you are going to quantify how people make you feel? It seems subjective.

ASSEMBLYWOMAN PETERS:

You are right, and that is part of the reason why we have not done anything like this before. The goal of this bill is not to be punitive because we have processes for those investigations and for redirecting people who may overstep the line. In one scenario, a woman was wearing natural hair and someone reached out and touched her hair or commented on it in an inappropriate way. This is not illegal behavior, but it made the woman felt uncomfortable. Collecting such data would indicate if the State may need to conduct implicit bias training or other management style training towards particular areas to help reestablish the culture of our agencies. This would not be punitive but would look for trends to see if we have a problem. These are unprotected scenarios and do not get into issues of sexual or other harassment. I want employees to come to work and be whom they are without being bombarded by other's biases. Basically, we are trying to answer the question of what we want our culture to look like and how we get there.

CHAIR OHRENSCHALL:

Do you have any closing comments, Assemblywoman Peters?

ASSEMBLYWOMAN PETERS:

I love the State of Nevada. The people who work for the State are some of the most big-hearted and most well-intended people I have ever met. I want our State to be the pinnacle of career aspirations, which is difficult in a time when people come from varying backgrounds and do not know about the culture here. The goal of this bill is to be as open and compassionate as we can be. Our employees are more than capable of meeting the goal. I look forward to seeing what our State employee base looks like in the coming years.

Senate Committee on Legislative Operations and Elections
May 25, 2021
Page 12

CHAIR OHRENSCHALL:

There is no public comment. We are adjourned at 5:35 p.m.

RESPECTFULLY SUBMITTED:

Barbara Young,
Committee Secretary

APPROVED BY:

Senator James Ohrenschall, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda