

NEVADA LEGISLATURE  
ASSEMBLY  
57TH SESSION  
COMMITTEE ON ELECTIONS  
MINUTES

DATE: Thursday, February 1, 1973

ATTENDEES: Foote, Chairman  
Gojack, Vice Chairman  
Crawford  
Ford  
Huff  
Smith  
Vergiels

ABSENCES: None

GUESTS: Legal Counsel  
John Meder Nevada Association of County Commissioners  
Bryn Armstrong LV Sun  
Thomas B. Winters -Private capacity  
W. E. Adams City of Las Vegas  
Hal F. Morelli City of Las Vegas  
Sam Dibitonto City of Reno  
Clyde E. Beglieni - City of Reno  
Jack Jeffrey City of Henderson  
Erin Vergiels Guest and wife of Assemblyman Vergiels  
Pat Ullom Wife of Assemblyman Ullom  
J. N. Ullom Assemblyman  
Ann Ehrenburg Review-Journal  
R.W. L. VanWagoner - Reno  
Russell Nielsen Press

Meeting was called to order at 4:25 P.M. by Chairman Foote.

SB-61

Legal Counsel:

~~The~~ contents of this bill is a product of the Municipalities Subcommittee of the Legislative Commission, who was primarily concerned working with the city charters, but in getting in all cities of the State discovered the first question asked was reapportionment and the effect on local government. They feel it did not include incorporated cities in the State of Nevada. The Attorney General felt they were included, especially in charter cities (such as Reno). As a result, early in the session, a bill was drafted to exclude cities in Nevada from action. The intent: to allow cities to elect city officials under their own city charters and made reviews of all city charters to make sure they met constitutional requirements. The three important things: 1) eliminates cities from local government reapportionment law; 2) covers those cities in the State where we felt there might be a question about their charter provisions to realign ward boundaries; followed City of Reno charter; 3) makes the effective date upon passage and approval. This is one of the

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reasons for early introduction of the bill and requested by the Senate as an emergency measure -- because some of the cities are faced with elections early in June, because filing dates sometimes occur in March. SB-61 is not intended to be a complete clean-up of the local government reapportionment law. AB-10 will do this.

Assemblyman Smith, chairman of the committee: As philosophically presented to them, it shows there had never been any intent to include cities in the law as passed in the last session. No opposing philosophies were presented. Therefore, it came as a shock when talking to Darrell Dreyer that on the Assembly side the intent is to carry it down to the minutest detail. The philosophy was we would make no changes in their local charters but were attempting to clean up their charters and assist them in their ability to function in their behalf. With this thought in mind, our recommendation was to preserve the sanctity of the local city charter at least through this next election. With these instructions, SB-61 was enacted to get this year's election problems solved.

Assemblyman Ford: How many of the cities do, in their charters, provide election by ward rather than by elected-at-large?

Carson City has 5 wards and the rest are elected-at-large. Reno has 5 wards elected at large and the mayor is chosen from the council.

Assemblyman Vergiels: How clear is the law?

states the Council  
Dibitonto: Council/will be elected by ward; Mayor elected-at-large.

Beglieni: Worst case of ward politics - trying to recall whole Council because everyone was worried about a particular ward and no one was paying attention to the city as a whole.

The Legal Counsel read Sec. 2, page 2 of the SB-61, 2nd sentence. He stated redistricting was very ambiguous in the opinion of the Attorney General. They tried to indicate to Las Vegas they were not covered by this.

Adams: The primary election is the 8th of May. Affidavits would begin 29 March. Additional requirement: our supplies and affidavits and ballots must be bid, and in order to do that we must receive permission from Commission by next Wednesday to go to bid to award bid by the 28th of February. Printer left open until 29th of April to put names in. Time is critical. It is almost to the point we need to have it now.

Assemblyman Crawford: Are you saying in case this Committee votes in single districts it would cause problems in Las Vegas?

Adams: If we don't open filing at the proper time, someone would have the right to take us to task for not doing it properly. Everything else has to fall in line or we can be strongly chastized and it would create problems if it goes past the point where we can accept and take bids.

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Assemblyman Crawford: How difficult would it be to redistrict Las Vegas between now and the end of March?

Adams: Impossible - we wouldn't be within 15 - 20% of being correct.

Assemblyman Crawford: If Legislature doesn't do anything in this action and a lawsuit ensues, there wouldn't be any redistricting until next year?

Legal Counsel: I believe it would be reverse - redistricting would proceed.

Assemblyman Smith: If we did act on it today, would it solve the problem now but not stop us from going further if we so desire?

Legal Counsel: No.

Assemblyman Smith: With belief in mind this does what it is intended to do, nominate "Do Pass" on this bill with reservation to be considered.

Seconded by Assemblyman Ford.

Assemblyman Ullom was asked to express his opinions on the bill. He stated he has mixed emotions about the whole thing. Last session stated specifically incorporated cities and that was their legislative intent. Obviously a conflict between legislative charters and this legislation. City charters support their particular positions and have gone to that position as opposed to looking to the positions of single seat legislation. Believe this is what the whole thing is about.

Chairman Foote: I served on the Elections Committee, too, several years ago. We did find portions dealing with similar things. Feel we did have the intention that we wanted to reapportion everything in the Assembly - one man, one vote. However, got shot down several times by the people as a whole, especially at the very end, then realized it was an extremely large job. Did make the attempt with the Assembly seats and feel it is our intent and hope that gradually we could do this throughout the State and all entities throughout the Assembly and all the boards. This attitude may be prevalent at this time or it may not.

Assemblyman Vergiels: If we pass the law, as is say, we do not have time to change it and have no choice.

Dibitonto: With the type of mechanics at Reno, it would cause nothing but mass confusion and wouldn't result in any more one man, one vote that we have now because we have reapportioned within 3½%.

Assemblyman Vergiels: If we change it, could be exempted. Right?

Dibitonto: Right. We cleaned house but with what you are trying to cure would have us go back to the system we had before we cleaned house.

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Assemblyman Ford: I know there is a conflict of the concept of home rule. If you are going to have clients have some say about the laws you create, one man, one vote does not necessarily apply to city charters when we have said you have a right to make up your own rules whether one man, one vote rules. I have some reservations about imposing single seat district upon a city when we have earlier said you have a right to determine charters in these areas.

Assemblyman Smith: All we are trying to do now is solve a sticky problem. For this particular election, before we go home, this Committee can go all the way, bring the people in, have a talk with them and see what they want to do. This hasn't shut the door for any future consideration of the subject.

Assemblyman Vergiels: When you go over to check out with the Senate, it seems to be somewhere in limbo.

Assemblymen Ford and Smith replied we can take the initiative.

Assemblyman Vergiels: We didn't last time.

Chairman Foote: We can start earlier than we did last time.

Assemblyman Smith: If you have 21 over there and 11 over here, you have got it made.

Assemblyman Ullom: Propose a compromise. I think by looking at single seat districts I can see where it would be a problem in some incorporated areas. 13,000 - 15,000 - here you have to include the majority or, in fact, of those cities where you have a representation problem. There is a mandate for a referendum for this kind of community; largely those peoples aren't represented and single city representation might be the answer. Maybe if it were amended to say "this take effect by 1975" or something of that nature, that would suffice. Don't believe single seat districts should be entirely forgotten.

Assemblyman Vergiels: What happens if we amend something other than what has been suggested on the Assembly?

Chairman Foote: It has to go back to the Senate.

Assemblyman Vergiels: Another two days.

Assemblyman Huff: On this particular thing, if we do it now, it could in effect be another area of consolidation - this would have an effect on this, too, wouldn't it?

Assemblyman Ford: The consolidation would not become effective until the date after the election.

Assemblyman Huff: If at this time they redistrict, it will call for another redistrict.

Assemblyman Ford: I see what you mean. That is true.

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Chairman Foote: I can see just because are as legislators do something doesn't mean that is right, undoubtedly. With this in mind, had there been a time within these two years whereby the Legislature was in session, this might have taken care of it; but I can see at this point an annual session would have solved this problem.

Dibitonto: Most cities who are under the gun right now have staggered elections. The intent is one man, one vote; I believe we are complying. If this goes through, we have an election coming up and we have to know what is going to happen.

Legal Counsel: Have complied with charter requirements but it provides for an election at large with 5 councilmen coming from wards for residency purposes.

Dibitonto: And mayor has to be elected at large and it will change the concept entirely.

Assemblyman Huff to Adams: On the redistricting - is there an expense involved in this? Can you give us an idea of the cost factor behind it?

Adams: Don't believe I can give a concrete answer. One of the issues we want to know. The governing board must be subdivided into appropriate chairs across the city, which means divide our city into five parts with equal population. To do that, Mayor would come from one area, which we didn't buy. As far as money involved, we are talking about two months of work for our Planning Department - 1/6th of \$240,000.

Assemblyman Huff: If thw Legislature makes a change in the city itself, this expense would be put out and then there would be an additional expense of redistricting again.

Adams: It would be involved. The institation of our action early in '71 followed the session through the Attorney General's requirement effective January 1. If requirement passed that we go ahead and do it now, we could do it and get it accomplished, but time-wise it would kill us. What appears later is another story.

Assemblyman Smith: This particular piece of legislation is designed to do one thing and nothing else - get us off the hook, out of the suit and for cities with elections time to proceed in accordance with their existing charters. The Committee can proceed with long-range philosophical thinking at any time in the future.

Assemblyman Vergiels called for a 5-minute recess.

Chairman Foote ruled we recess for 5 minutes

Meeting reconvened at 5:10.

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Bill No. S.B. 61

Sponsor: Committee on Federal, State and Local Governments

Subject: Exempts Carson City and incorporated cities from Local Government Reapportionment Law and provides periodic reapportionment for general law and certain charter cities.

Committee Action: Assemblyman Smith made a motion the Elections

Date: 2/1/73 Committee vote "Do Pass" on S.B. 61.

Seconded by: Assemblyman Ford

Committee Vote:	<u>Yes</u>	<u>No</u>	<u>Excused</u>	<u>Absent</u>
Foote	X	-	-	-
Gojack	-	X	-	-
Crawford	-	X	-	-
Ford	X	-	-	-
Huff	X	-	-	-
Smith	X	-	-	-
Vergiels		X	-	-

Disposition: Do Pass

Date: 2/1/73

Intent: Assemblyman Smith stated it would be his intent to try to move this through the Assembly within the next day.

AB-10

Legal Counsel: Bill was presented by Elections Subcommittee. The bills I hope, do not necessarily conflict. This was a broader attempt to exempt local governments from the application of the local government reapportionment law. The Elections Committee spent a good part of one day listening to problems created by the concept of single member districts, particularly small improvement districts within the county. These are often small units and requiring them to reapportion to single member units creates problems. They did try to consider it and the basic intent was to preserve local government reapportionment act, but only for those areas which are county-wide - including County Commissioners, Board of Hospital Trustees and School Boards in all counties of the State. Reason: essentially the feeling of the Elections Subcommittee was, if you have a housing district that was county-wide, argument for taking these small districts would be lost - they should be reapportioned if they are county-wide. In addition, we became involved in problems with the definition of a single member district. Single member district was not defined when local member reapportionment was drawn and believe it is a legitimate argument what it does mean. It is my feeling it means only the people of that district vote on a candidate from that district. Other views (mostly Attorney General products): if you reside in a single member district but are elected at large, that would be a single member district. The Elections Committee provided a basis whereby the County Board of Commissioners for both the Board or School District, or Hospital Trustees, or any other district that is county-wide (through about Section 3 now) would specify. I would like to point out one thing called to my attention - Mr. Meder probably has more to say. I do

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feel the Elections Subcommittee did not give adequate consideration to the problems of Carson City. It is not a city or a county, but a special unit of government created by the Constitution of the State of Nevada and does not fit into anything. So when you say you are doing this for a county, you have to be very clear to say you are doing it for Carson City. They have a problem with their Board of School Districts and Hospital Trustees and would say this to you: if you approve the basic concept of AB-10, I feel to make it a workable one, hold it so you can prepare an amendment to solve at least Carson City's problem. It has to be included in here somehow. If you don't like AB-10 and want to make substantial changes, believe we can solve the problems of Carson City in making the substantial changes. I don't believe this particular bill has any of the rush that S.B.-61 does -- it is about units of government that aren't faced with another election until the next General Election. I believe it is a difficult bill as it now reads.

Assemblyman Ford: I would certainly like to hear remarks of anyone in the room on this also. Believe there are questions in substance raised today that lead me to believe we should not make a decision on this today.

Legal Counsel: Dreyer was chairman of the Elections Subcommittee and could provide you with more details.

Meder: We are concerned in Carson City. People will have very little use for the one-man, one-vote philosophy. Also, there is a practical area in which we have to consider this. In some of the counties, we are talking about 600 registered voters and it becomes a little impractical to divide districts into single member districts. To representatives representing the metropolitan area, could exclude the activities of the rest of the county and it has to be considered by the Legislature. In addition to the County Commissioners, our situation is we have four wards for our Supervisors; we have five members of the Hospital Board and seven members of the School District and three Legislative districts. We have 13 combinations of ballots with 7,000 voters. You are looking at a Cemetery District, Water Districts, etc. They are things that are affected by the one-man, one-vote program. We got rid of our Cemetery Districts. All we are asking here is County Board of Commissioners, that the Assembly does support the type of philosophy being developed in AB-10, and take these things into consideration when you are voting on this. In small communities up to 15,000 these are not workable but in larger districts they might work.

Assemblyman Vergiels: I vote we hold it over pending an amendment.

Assemblyman Smith: I suggest we order the amendment our legal counsel has in mind.

It was determined that AB-10 would be held until the Elections Committee determines what to do with it.

Assemblyman Crawford: Can we discuss it before we amend it?

Chairman Foote concurred.

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Chairman Foote advised some bills had been presented to her and suggested some of the guests might want to discuss them for the benefit of the Elections Committee at this time.

Mr. Winters: Thomas Winters, resident of Carson City, member of Carson City Democratic Central Committee. The thing that concerns me and want to bring up for consideration has to do with voting on the part of persons with certain types of physical handicaps. Problem divides itself up into two groups of people - ones who cannot mark their own ballot and getting into a polling place. Fraud could be cut down as much as possible and the right to vote should be preserved.

Concerning the persons who cannot mark their own ballot, the law previously empowered county clerks to assist people who couldn't mark their own ballot. Most other states are quite specific in this area of aid available. Last Legislature, this was repealed (by mistake apparently). Koontz asked Attorney General's opinion (#77 in 1972) and only effect of the repeal was to take the power out of the hands of the county clerks and into the hands of the Secretary of State. Pursuant to that provision, the Secretary of State mentioned regulation 21 which was used for the last two elections. It has a number of disadvantages. There is no way of telling in advance who is handicapped and who is not. Anyone can swear he is physically handicapped and needs assistance and this can lead to fraud. I have prepared a memo on this subject and given a copy of the Chairman of the Elections Committee (copy attached to minutes) which proposes if you cannot mark your own ballot, give advance notice and fill in registration affidavit saying you are unable to mark ballot. If the voter doesn't present this affidavit, put nothing in the check mark. We don't require that especially be filled in in order to secure assistance. The first paragraph says you should either fill in this space or have it filled in or go to the polls and present a doctor's or nurse's certificate to state you cannot mark your ballot in order to obtain assistance to mark ballots. In the second paragraph, when the voter got to the polls, the voter would appoint another registered voter to assist him and the voter to assist would be sworn by the Elections Board he would inform the voter of everything on the ballot and faithfully record the choices on the ballot and keep it a secret so no one else would know how the handicapped citizen had voted. He would put them on the sample ballot, go to the voting booth and transfer to the official ballot in order to avoid having two people in the voting booth at the same time and anyone overhearing the conversation and thus the vote would be no longer secret. This appointed other registered voter would also sign the poll book.

That would take care of marking the ballot if the handicapped can get into the polling place, someone in wheel chairs, for example. County Clerk Smith in Carson City has been very considerate where wheel chair people have access. Some narrow doors and stairs create problems. The third paragraph gives notice voter cannot get into



building and would be unable to vote by emergency absentee ballot. Again, in Carson City Mr. Smith has been quite considerate in giving emergency absentee ballots, but the statute doesn't allow this. I believe it would be a better part of discretion to have the statute spell that out. Also, the statute on absentee ballots now reads where an absentee ballot was used to vote in two elections in a row, the right to vote has been cancelled, and I believe if the handicapped are allowed to use absentee ballots to cast vote, if they need to use it more than two elections in a row the right to vote should not be cancelled.

Chairman Foote: Our Committee will keep your memorandum and will look into drafting some type of bill because we know this is one of the problems uncovered after we met last time. Carson City tries to get some temporary place for this.

Chairman Foote: Any other business to be brought up?

Assemblyman Smith: I would like to ask a question. Are you going to ask for an amendment or will the Committee cancel it? (Re: AB-10)

Chairman Foote: No, we ask for it.

Assemblyman Smith: Do Pass.

#### ADJOURNMENT

Assemblyman Huff made motion for adjournment. Assemblyman Ford seconded the motion. Meeting was adjourned at 5:40 P.M.

Minutes respectfully submitted by

Marion Smith  
Assembly Attache



1. Would you please verify the interpretation of the handwriting of the guests for correct spelling? *o/r* 51

2. Could I please have a copy of Mr. Winters' memo for repro. to attach to the minutes?

Page 2 - What was Reno's answer?

Page 6 - who 2nd'd the "Do Pass" motion by Smith on SB 61?

Page 9 - Did Mr. Smith's comments and "Do Pass" refer to SB-61? If so, should it be so indicated here, or these comments transferred to the page where this was discussed?

② Pers. has 5 wards

Page 2 elected at large and  
the mayor is chosen from  
the council.

Page 6 Jean Ford.

Page 9 referred to AB10.

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Name

Title & / or  
Organization

JOHN MEDER

NEVADA ASSOCIATION OF  
COUNTY COMMISSIONERS

Bryon Armstrong

to be

Thomas B. Winters

- Private capacity

W.E. Adams

City of Las Vegas

Hal F. Morelli

City of Las Vegas

SAM DIBITONTO

City of Reno

Lyle E. Bechini

" " "

Jack Jeffrey

City of Henderson

~~Erin Vergies~~

Erin Vergies

Pat ~~Hillman~~

Ann Breckner  
Ehrenkrantz

Review Journal

REP. H. Van Wayson

Reno

Assemblyman

Plumbe Press



The Nevada Revised Statutes should be amended to provide:

Persons who suffer from a chronic illness or physical handicap or injury which will render them or may render them unable to mark their own ballots should so notify the county clerk or registrar of voters in advance. At present in Carson City a blank is provided on the registration affidavit for this purpose, but it is not necessary for the voter to fill in this blank in advance in order to obtain assistance at the polls. Nevada law should be amended to require that such a blank on the registration affidavit be filled in or that such notice be stamped across the face of the affidavit, or that a certificate of inability to mark a ballot signed by a doctor or nurse and dated after the close of registration be presented at the polls, if someone other than the voter himself is to mark his ballot.

At the polls, the voter should appoint another registered voter to mark his ballot for him. The voter appointed should swear or affirm before the voter whom he is assisting and a member of the election board that he will inform the disabled voter of all the choices open to him, will mark the choices of the voter on the sample ballot and the regular election ballot, and will keep the choices secret unless the handicapped voter authorizes him to reveal them. The two should then withdraw from the hearing of others, and the voter rendering assistance should mark a sample ballot according to the wishes of the disabled voter. He should then go into the voting booth and vote the ballot or voting machine according to the choices recorded on the sample ballot. The pollbook should be signed by the disabled voter with the same mark as appears on the affidavit of registration, or by a member of the election board who should also sign the affidavit of registration in pencil and note thereon the number of the line used for that voter in the pollbook, and the voter rendering assistance should sign on the same line. The pencil marks on the affidavit of registration should be erased after the deadline for a recount has passed, or after a recount is completed.

Voters who by reason of a physical handicap may be unable to gain access to the polling place or voting facility should so notify the county clerk or registrar of voters in advance by filling in a blank on the registration affidavit or by causing such notice to be stamped across the face of the registration affidavit. If the voter cannot get into the polling place or voting facility on election day, he should apply for and obtain an emergency absentee ballot such as that issued to voters confined in a hospital or nursing home or taken suddenly ill. (The present emergency absentee ballot law, NRS 293.316, does not now expressly make such voters eligible for emergency ballots, although at least some Nevada county clerks do issue them to voters with such an access problem, construing the statute broadly to permit the procedure.) Voters who have given advance notice of such an access problem who encounter it and vote by emergency absentee ballot should be treated in the same manner as if they had voted in person at the polls, and their use of an emergency absentee ballot should not count towards cancellation of their registration under NRS 293.545(2).

Memorandum on Order of Names on the Ballot

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Thomas B. Winters

At present NRS 293.263, 293.265, and 293.267 (2) require that names of candidates shall appear in alphabetical order under the names of offices which they seek. This applies to both primary and general elections. The provision of 293.268 that "The offices for which there are candidates and the names of the candidates therefor shall be listed in the order in which they are certified by the secretary of state" (emphasis added) appears to have been superseded by amendments to the preceding sections of NRS.

There is reason to think that the last place on the ballot is a poor one for the candidate to occupy because of "positional effect"—the tendency of voters to be influenced by the order of listing, especially as to less informed voters marking their ballots for minor offices. To fight this problem, some states rotate the ballot from ballot to ballot or from precinct to precinct, while others provide for drawing of lots.

It is recommended that in Nevada ballot positions in both primary and general elections be assigned by lot. (The printing of multiple ballot formats does not appear feasible because of the cost factor.) The drawing should be conducted by the officer with whom candidates file for the office in question, and should be conducted publicly at a time fixed by law. The same order of names for each office should appear on all ballots listing that office.