Minutes

Election Committee Minutes
April 22, 1975

Tuesday, 7:00 a.m.
Room 336

Members Present:	Mr. Demers Mr. Sena Mr. Heaney Mr. Vergiels Mrs. Wagner Mr. Young
Members Absent:	Mr. Chaney (Excused Absence)

Guests:	Representing:
Stan Colton	Election Department, Clark County
Joseph Dini, Jr.	Assemblyman
Father Larry Dunphy	Common Cause
Robert Gwenn	Self
Robert Weise	Assemblyman
George Hawes	AFL-CIO
Jean Ford	Assemblyman
Vaughn Smith	Carson City Clerk

Mr. Demers called the meeting to order at 7:05 a.m. He announced the first order of business would be A.B. 542. Various deletions and additions were made. The motion was made by Mrs. Wagner to pass as amended. Mr. Heaney seconded the motion. All members voted, "Aye", with none opposing.

Mr. Demers announced the next order of business would be A.B. 521. Mr. Young moved that this bill should be indefinitely postponed. Mr. Sena seconded the motion. All members voted "Aye", with none opposing.

Mr. Demers stated the next order of business would be AJR 4. After a brief discussion, Mr. Demers moved that AJR 4 should pass as amended. Mr. Sena seconded the motion. All members voted "Aye" with none opposed.

The next order of business was AJR 14. Mr. Young made the motion to indefinitely postpone AJR 14. It was seconded by Mr. Sena. All members voted "Aye", with none opposed.

Mr. Demers announced the next order of business would be A.B. 581.

Mr. Colton spoke for the bill and said there was a need for this bill because of the computer voting. He also submitted a copy of his recommendations which will be included in the minutes. Mr. Swackhamer stated from the audience that new language is needed in Section 14. Also, he stated Section 19 has the same problem as on 14. Mr. Demers asked that everyone study A.B. 581 more closely and he stated it will be discussed at a noon meeting on Thursday, April 24, at 12:30 p.m.

The next order of business was A.B. 610. Assemblyman Dini testified saying that this was a redraft of a bill that came out 2 years ago and it was killed on the last day of the last session. Mr. Dini felt this bill should allow us to begin some ethical standards. In the bill, he stated that the word "household" was not definitely defined and suggested it should read, [or that of any member of his household].

Assemblyman Wagner felt that page 3, lines 33-43 should be reworded to reflect that if you are going to vote for something that is of benefit to you, you should declare if you are voting or if you are in conflict.

Assemblyman Dini stated that on page 6, this gets us started in the area of conflict of interest. This bill was defeated before, but now it should pass.

Father Larry Dunphy was the next to testify for A.B. 610. He stated that he was in complete support of the bill. He feels that corruption has been ignored too long. He stated that 16 states have established ethics commissions. Father Dunphys statements are attached in the minutes, which also state his suggestions for amendments.

Mr. Demers stated that the purpose of the bill was to get it implemented and going and later make changes on it.

Mr. Gwenn was the next to testify for himself. He stated that he worked for two trade associations but in this instance, he was representing himself. He felt that there should be progress made at this session with reporting income. He stated that other states had been able to accomplish this. He felt that A.B. 610 was reasonable with a few minor changes. His suggestions were: Page 3, line 46--financial interest is not defined. He felt that page 6, line 6 was "cumbersome". He urged that the Committee take some action along these lines.

Assemblyman Ford spoke and said she supported the bill as it was a step in the right direction. She felt the bill has some problems in interpreting. Mrs. Ford stated that she had been fortunate enough to attend a conference in Utah recently called the Citizens Conference on State Legislatures. The group was brought together to consider conflicts of interest. Different groups were formed to study the problem and also study practical solutions. She felt it is important for Legislature to set up code of ethics without pressure from the public. The chief conclusion reached was that disclosure is the key. She felt that on the ballot, the person should have adequate information about the person running for office; in this way, the public could decide whether there would be a conflict of interest. Mrs. Ford stated that she agrees with Mr. Dini's comments about the bill. She also felt that statements should be filed annually and not every two years. She questioned

whether there was enough money in the bill to do an adequate job. She didn't feel that the reporting of money should be tied to any particular State agency; however, someone should be assigned to this job with office space etc., secretary etc. She cited page 3, line 33 -43. She felt that once a person disclosed a conflict of interest, they should still be able to vote. She stated that in Oregon Legislature, they have a yes and a no vote button and no abstaining button as we have in Nevada.

Mr. Demers stated the next order of business would be A.B. 577.

Mr. Weise testified on this bill as the introducer. The bill sets requirements for composition of county commissioner election districts within certain counties. He stated that there was a similar bill that was introduced in the Senate. Mr. Weise stated it would reduce the number of ballots.

Mr. Demers stated the next order of business would be A.B. 639 which amends election laws to facilitate voter registration and extend use of absent ballot. He stated that the gist of this bill is postcard registration. He also stated there will be a lot of amendments on this bill but the main part is p.c. registration. Mr. George Hawes stated that he wished to apologize for the absence of Mr. Paley. Mr. Paley was supposed to be up in Portland, Oregon for three days,but he had to combine this trip into one day which happens to be today. He stated they would both like to be present for work on this particular bill and he asked that their testimony be deferred until such time that Mr. Paley and I can be here to make sure that we don't make conflicting statements as you indicated there are a few amendments,and we would both like to be heard.

Mr. Colton stated that there were a number of aspects to the bill other than postcard registration. He stated that postcard registration doesn't work. As an example, the state of Texas has had postcard registration and now the state ranks 45th in registration. In New Jersey and Maryland they have a modified form of post card registration and there has been no increase in registration. 20% of the cards could not be handled due to illegibilty, damage in the mail or improperly filled out. In New Jersey, they found out that the voter turn out was lower with postcard registration (56%) and with the normal registration, the voter turn out was (81%). There are also problems with fraud or "political mischief". There is also the problem of late registration, i.e. the Saturday before election. This does not enable the registered voters to receive a sample ballot through the mail. There is also the problem of equipment to handle. People who register up through Saturday cannot be put on a roster that are sent out to the precincts. Also, the amount of supplies that must be sent out cannot be estimated. The cost of registration would be 30-40¢ per postcard or three to four times the price of the normal registration, plus the cost of converting to post card registration. In Minneapolis, Minnesota

there were very long lines (14,000 people) and people attempted to vote but became disenfranchised and went home. Again, fraud is a severe problem here because you cannot stop anyone coming in from another state and registering, voting and returning to their home state. In regards to Section 5, we had 11,000 persons in Clark County who moved and we had no record of. This would by 10% of the voter registration. Section 6 deletes the requirement for residency in a county or precinct and requires for voting purposes and requires you to be only a 30 day resident of the State. So, if I were a transient and lived in Las Vegas, and if I had to be in business in Reno, I would go to a Reno poll and register and register that day, since I had qualified for residency, and I would vote in Reno. Under Section 32, what do they plan to do--tear the voting equipment to pieces diode by diode? They may not be able to put it back together again. Under Section 33, the bill asked for the ballots to be transferred along with a representative of each qualified political party. As it stands right now, the Secretary of State requires a bi-partisan transfer of ballots from the voting place to the counting place. We have two-three recognized parties in the State--this would bring us up to five--if we had more recognized parties right now, you could put them in a normal size automobile and if there are more, you could put them in a bus. Also, if one of the parties is not recognized, what do you do--not send them in. There are a lot of grey areas. I think also that section is covered by the bi-partisan transfer of the ballots to the voting place in A.B. 581*, under Section 69. Now, there are some positive aspects. Under Section 31, the canvass of the precincts, for voter registration is an excellent idea, however very costly. There are also many places in the state where absentee registration could be extended for the person who lives a great distance from the Registrar of Voters. There is one major problem for we are confronted with both the House and the Senate with a bill calling for Federal postcard registration. The registration would apply solely to Federal elections, the President, Senators, House of Representatives. Should the United States government pass this bill, I feel that a companion bill. My suggestion would be to consider a bill, so that we are not left with dual registration. We should have a bill on the books that would be ready to trigger in to conform with the Federal bill. Presently, we do not have a companion bill and we would be left with a dual registration. The reason for this is that people simply do not read forms that are dropped off at their house. They would fill out the national form thinking this would allow them to vote in any election. If they go the polls and find that they can only vote for a Congressman I'm sure they would go through the roof and we would only discourage the voter and possibly disenfranchise him.

Mrs. Wagner asked if a single registration is the desire. Mr. Colton answered, yes.

Mr. Heaney stated to Mr. Colton that what he was saying that the

* see attachment

post card system, is that you would rather not see it, but if Congress is going to do it, we should have a bill ready to trigger in post card registration, so that we don't have a dual system.

Mr. Colton stated that if the state adopts the system, the Federal government will pay 130% of the bill. Presently, there are 52 people introducing the bill in the United States Senate. Wayne Hayes opposed this bill last year and this year, he is the introducer of the bill.

Mr. Fahrenkopf stated from the audience that Mr. Colton covered what he would have said about the bill, as well as his objections.

Mr. Smith stated that Stan Colton covered about 90 of what I have to say and he said that what he had to say, he could reiterate right down the line. He said that he could speak for most of the County Clerks and Registrar of Voters by following the same suggestions that he has made. He suggested that if anyone thought this was a good system, they should work just one day on the election board. That would be enough to cure any thought that this is a good system. If we have 5 people working on an election board, to handle the voting, we would have to have another 5 to handle the registration at the polls. We don't have any way of setting up a computer program at the last minute; we have no way of testing that program. Theres rules and regulations right now handling the testing of programs and safeguards built in to make sure that the programs are accurate and working properly. This involves a number of registered voters in getting correct percentages of the turnout and other statistics that are necessary in the tabulation of the vote and the print-out of those votes, and that would just shoot that system all to pieces. The other confusion at the polls would more than off-set any additional voters that might be brought in to registration. I think that post card registration is a very ill thought out concept. I don't see why there are so many in favor of it on the national level. Perhaps, they too have never participated in conducting an election wouldn't know what confusion would result.

Mr. Heaney inquired of Mr. Smith if he agreed with Mr. Colton to have the registration all on the same level--both state and national. He stated he didn't quite know how that would work. He said he didn't know how he would aanswer that question and he felt we should not do anything with post card registration until forced to do so. He stated it would take a Supreme Court ruling to convince him.

Mr. Smith inquired about the language at the top of page 3 saying "Each election board shall be bipartisan"--does that mean only two parties may be represented? No, it could be three. Mr. Smith stated that the wording used previously was all right and stated

that he did not like the change in that section.

The Chairman stated that the only bill they could take action on was A.B. 577. Mrs. Wagner made the motion for a do pass and Mr. Chaney seconded the motion. All members voted "Aye" in favor of the bill.

Mr. Demers stated that the next meeting would take place on Thursday, April 24th at 12:30 p.m.

The meeting adjourned at 9:35 a.m.

Respectfully submitted,

Martha Laffel

Martha Laffel
Assembly Attache

Attachments
As Stated:

AJR4
AB441
SB355
AB521
AB542
AJR14

HEARING

COMMITTEE ON ELECTIONS

Date April 22, 1975 Time 8:00 A.M. Room 336

Bill or Resolution to be considered	Subject
A.B. 577	Sets requirements for composition of county commissioners election districts within certain counties (involves only Washoe County).
A.B. 581	Provides for punchcard voting systems.
A.B. 610	Creates state ethics commission, establishes code of ethical standards for public officers and employees and requires financial disclosure by candidates for and holders of elective public offices.
A.B. 639	Amends election laws to facilitate voter registration and extends use of absent ballot.

ACTION TAKEN AT 4/15/75 MEETING

A.B. 508	amend and do pass
A.B. 520	indefinetely postponed
A.B 507	amend and do pass
~~A.B. 520~~	~~hold for Bill Bunker~~ Bunker.

Common Cause is very strongly in support of the direction and concepts of AB 610. The Ethics Commission the preferred mechanism recommended by Common Cause for implementing and enoforcing the provisions to be enacted regarding conflicts of interest on the part of public officials and employees and for the provisions regarding lobbyists. Common Cause feels that State and local prosecutors have shown an uncanny ability to ignore political corruption. They are of the opinion that an independent and bipartisan ethic commission willnot feel the peer pressure against enforcement that local prosecutors and legislative committees have often not been able to resist. Common Cause also believes that citizens whould be given the right to sue to enforce the law if the commossion does not.

As of Jnuary of this year, 16 States (Alabama, Arizona, California, Florida, Hawaii, Indiana, Kansas, Louisiana, Maryland, Minnesota, Missouri, Ohio, Oklahoma, Oregon, Washington, and Wisconsin) had established ethics commissions to monitor and enforce conflict of interest and financial disclosure laws. Louisiana has had theirs since 1964 and Oklahoma since 1968.

AB 610 is especially worthwhile in that it applies at all levels andbranches of government, except the Judicial. We would like it to apply to the Judicial Branch also, but I have heard previsously that there is some problem in Nevada about regulating the Judicial Branch.

In most respects AB 610 is quite close to the model Ethics Commission and Conflict of Interest Bill distributed by Common Cause. Sections 15 and 16 of AB 610 seem to be especially good.

We would like to suggest the following comments as possible grounds for amendment:

In Sec. 6, add subsection 7:) NO ONE MAY BE APPOINTED FOR MORE THAN ONE FULL FOUR YEAR TERM.

On page 5, Sec. 14, Subsection 3, we feel that office holders should be required to file annual statements.

On page 6, Sec.15, subsection 2: language should be added to provide that the source of any income received for mental health services need not be included.

Also, on Sec. 9, subsection 2, lines 31-32, it says: any business entity with which he or a member of his family is associated. Perhaps it whould be well to define under the definition section the concept of "business with which he is associated." This could be defined as follows: MEANS ANY BUSINESS IN WHICH THE PERSON IS A DIRECTOR, OFFIC

OFFICER, OWNER, EMPLOYEE, OR HOLDER OF STOCK WORTH $1,000 OR MORE AT FAIR MARKET VALUE, OR ANY BUSINESS T AT IS A CLIENT OF THE PERSON.

IT SEEMS ALSO THAT UNDER SECs. 7 & 8, THE commission needs to be given some investigatative functions and powers in order to carry out the purpose of this act. This is going to be necssary to implement the act as well as to protect the public official from undue harassment and usless and needless suits. Provisions and guarantees should be made of confidentiality until the commissioners have reached their verdicts or are ready to bring the matter to the court.

Probably there should also be some discrescionary judgement to the commission to decide if in particular instances the literal application of this act would work a manifestly ~~unreasonable~~ hardship and if it finds that the suspensions or modifications of this act would not frustrate the purpose of this act.

On page 6, Sec. 16, add subsection (4): No public official shall be allowed to take the oath of office or enter or continue upon his duties, nor shall he recieve compensation from public funds, unless he has filed a statement as required by Sec. 15 and 16 ofthis act.

(5) No person ahsll use for any commercial purpose information copied from statements of financial interests required by Sec 15 & 16 of this act, nor from lists complied from such statements.

(6) Where a n amount is required to be filed pursuant to Sec. 15 & 16 of this A ct, it shall be sufficient to report whether the amount is less than: $2,500; $2,500-5,000; $5,000 - 10,000; $10,000 - 25,000; $25,000-50,000; or more than $50,000.

AB 610 if passed shoud probably also be made to be theimplementation and enforcement mechanism of SB 503 , The Conflicts of Interest Bill, and of AB 454, the Lobbying registration bill.

STANTON B. COLTON
Registrar

OFFICE OF THE
Registrar of Voters
CLARK COUNTY, NEVADA

400 Las Vegas Boulevard South • Las Vegas, Nevada 89101 • Telephone (702) 382-4982

April 17, 1975

Assemblyman Dan Demers
Legislative Council Building
Carson City, Nevada 89701

Dear Danny:

I am enclosing my recommendations for the amendments to Assembly Bill 581, punch-card voting law.

I reviewed the law again very thoroughly and have reduced the number of amendments that I had anticipated proposing to the few that are on the attached page.

Sincerely,

STANTON B. COLTON
Registrar of Voters

SBC/daw

Enclosure

1. Page 5, Section 43, Subsection 2.

   Delete.

   Explanation: Because of limited facilities and space, there can be no general public representation present during the testing of the programs to be used to count ballots, in any election. Therefore, public notification would be superfluous.

2. Page 6, Section 46, Subsection 2.

   Delete subsection 2.

   Explanation: Subsection 2 of Section 46 is a continuation of subsection 2 of Section 43.

3. Page 6, Section 52, Line 34.

   The word "provide" should be inserted between the words "and" and "delivery"; and the word "of" should follow the word "delivery". So that the sentence would read as follows: "and provide for the delivery of the devices to the polling places, etc.".

4. Section 52, Lines 37 and 38.

   The phrase "at least five hours before the time set for the opening of the polls on Election Day", should be deleted.

   Explanation: The municipal elections, such as those that we are about to conduct, are of such a small nature that the supplies can be delivered within a few hours of the opening of the polls. A five hour instruction for municipal elections could create some problems for the city entities.

5. Section 54.

   Should be deleted in its entirety.

   Explanation: Votomatic units are not like voting machines, that formerly required the inspection of automatic counters to see that they were at zero, and to make notations of the opening number on the cumulative counter. Inspection called for in Section 54 would be nothing more than looking at pages with names on them. It would therefore appear to be superfluous.

6. Page 7, Section 62, Sub-paragraph A and B.

   Sub-paragraph A and B should be deleted.

   The voting devices that we use we have found it preferrable not to seal the ballot, but to band many devices together with metal strape. Therefore, not requiring the individual devices to be sealed.

7. Section 62, Subsection 2.

Subsection 2 should be stricken for conformity to the above suggestion.

8. Section 68, Subsection 3.

Following the word "statement" the remainder of the sentence on lines 24 and 25 should be deleted.

9. Section 68, Subsection 4.

The words "ballot statement" should be substituted with the words "the certificate".

Explanation: This was originally taken from the California Law where they use a different type ballot accounting system that we have developed in Nevada. Our system has proven superior to theirs and a number of California counties are now adopting our ballot account system.

10. Section 69, Line 34.

The following sentence should be stricken: "When available such election board members shall be escorted by a deputy sheriff or police officer".

Explanation: We have several elections throughout the state using this system, and have never found that we require the presence of a deputy sheriff or police officer in the transportation of ballots.

11. Sections 74 through 80.

Should be rewritten in their entirety to conform to the Official Rules and Regulations promulgated by the Secretary of State starting on Page 10 of said Rules and Regulations, and terminating on Page 12. (A copy of which is enclosed).

Explanation: The Rules and Regulations as set forth by the Secretary of State were developed subsequent to the introduction of this bill in the 57th Session of the Legislature. They were developed by representatives of each county using the punch-card system in conjunction with the Secretary of State and legal counsel.

12. Section 90, Subsection 2, Paragraph C.

Line 37 should be deleted.

Explanation: The number of polling places that are in excess of ten miles from the county courthouse in Clark County, as well as other counties using the punch-card system of voting, make it extremely impractical to post the results of the election.

In Clark County 90% of the buildings used as polling places are schools and the posting of the results at these locations would probably not remain for more then two minutes after they are posted.

13. Section 90, Subsection 3.

Should read as follows: "each copy of the voting results posted in accordance with subsection 1 and 2 shall set forth accumulative total results of all the votes cast within the county or political sub-division conducting such election, and should be signed by the members of the counting board or the computer program and processing accuracy board.

Explanation: With the number of precincts in Clark County and Washoe County it would be impractical, if not impossible, to find sufficient wall space to display the precinct by precinct, or district by district, results of any election. Such results are available for inspection with the Clerks of the Board of County Commissioner or the Election Departments of the various counties.

D. BALLOT PROCESSING FUNCTIONS

D–1 Appointment of special election boards and officers.

(a) To facilitate the processing and computation of votes cast at any election conducted under a punchcard voting system, the county clerk may create one or more of the boards described in regulations D–2 to D–5, inclusive, shall create the board described in regulation D–6 and may create such additional boards or appoint such officers as he deems necessary for the expeditious processing of ballots.

(b) The county clerk may determine the number of members to constitute any such board. He shall make any appointments from among competent persons who are registered voters in this State. The same person may be appointed to more than one board but must meet the particular qualifications for each board to which he is appointed.

(c) All appointees under this regulation shall serve at the pleasure of the county clerk. (NRS 293.247)

D–2 Central ballot inspection board. The county clerk may create a central ballot inspection board which shall:

(a) Receive the ballot cards in sealed containers.

(b) Inspect the containers and remove the ballot cards.

(c) Register the numbers of ballot cards by precinct.

(d) Deliver any damaged ballot cards to the ballot duplicating board.

(e) Receive duplicates of damaged ballot cards from the ballot duplicating board and place the duplicates with the voted ballot cards of the appropriate precinct.

(f) Place each damaged original ballot card in a separate envelope and note on the outside of the envelope the appropriate precinct number.

(g) Reject any ballot card that has been marked in a way that identifies the voter.

(h) Place each rejected ballot card in a separate envelope and note on the outside of the envelope the appropriate precinct number and the reason for board's rejection of the ballot card. (NRS 293.247 and 293.367(9))

D–3 Absent ballot mailing precinct inspection board. The county clerk may create an absent ballot mailing precinct inspection board, which shall:

(a) Perform functions similar to those described in regulation D–2, as such functions are applicable to absent and mailing ballots.

(b) Bundle the empty absentee and mailing return envelopes according to ballot type or precinct and deliver the bundles to the county clerk.

(c) Treat any absentee or mailing ballot return envelope found not to contain a ballot as a rejected ballot and place each such envelope in a separate larger envelope on which shall be written the ballot code or precinct and the reason for the rejection. (NRS 293.213, 293.245, 293.247 and 293.335)

D–4 Ballot duplicating board. The county clerk may create a ballot duplicating board. The membership of such a board shall, as nearly as practicable, include equal representation from the major political parties. If created, the board shall:

(a) Receive damaged ballot cards, including but not limited to cards which have been torn, bent or mutilated.

(b) Receive ballot cards with incompletely punched chips.

(c) Prepare on a distinctively colored, serially-numbered card marked "duplicate" an exact copy, with respect to punching, of each damaged card.

(d) In the case of a ballot card with an incompletely punched chip:

(1) Remove the incompletely punched chip; or

(2) Duplicate the ballot card without punching the location of the incompletely punched chip, according to the county clerk's determination of the probable intent of the voter.

(e) Record the serial number of the duplicate ballot card on the damaged original ballot card and return the damaged and duplicate ballots to the appropriate ballot inspection board.

(f) Hold aside the duplicated ballot cards for counting after all other ballot cards are counted if this procedure is directed by the county clerk. (NRS 293.247)

D–5 Ballot processing and packaging board. The county clerk may create a ballot processing and packaging board. The membership of such a board shall be composed of persons who are qualified in the use of the data processing equipment to be operated for the voting count. If created, the board shall:

(a) Permit only those persons authorized by the county clerk to gain access to the computer center counting area during the period when ballots are being processed.

(b) Receive ballot cards and maintain groupings of all ballot cards by precinct.

(c) Before each counting of ballot cards (or computer run) begins, validate the test material with the ballot counting program.

(d) Maintain a log showing the sequence in which ballot cards of each precinct are processed, as a control measure to insure that the ballot cards of all precincts are processed.

(e) After each counting of the ballot cards, again verify the test material with the ballot counting program to substantiate that there has been no substitution or irregularity.

(f) Record an explanation of any irregularity that occurs in the processing.

(g) Collect all returns, programs, test materials, ballot cards and other election items at the computer center and package and deliver the items to the county clerk for sealing and storage. (NRS 293.247)

D–6 Computer program and processing accuracy board. The

county clerk shall create a computer program and processing accuracy board. The membership of such a board shall, as nearly as practicable, include equal representation from the two major political parties and shall receive their appointments no later than 7 days prior to the election in which they will serve. The board shall:

(a) Verify that any invalid prepunching of a ballot card will cause the card to be rejected.

(b) Verify that votes can be counted for each candidate and proposition.

(c) Verify that any overvote for an office or proposition will cause a rejection of the vote for that office or proposition.

(d) Verify that in a multiple vote selection the maximum number of votes permitted a voter cannot be exceeded without rejecting the vote for that selection, but any undervote will be counted.

(e) Verify that neither a voter's omission to vote nor his irregular vote on any particular office or proposition will prevent the counting of his vote as to any other office or proposition on the ballot. (NRS 293.247 and 293.367)

E. DUTIES OF COUNTY CLERK

E–1 Consolidation of precincts. In counties where a punchcard voting system is used, the county clerk should form voting districts by a consolidation of contiguous precincts if such consolidation will enable him to conduct any election with improved economy and efficiency. (NRS 293.121, 293.215, 293.247)

E–2 Membership of election board.

(a) Where a punchcard voting system is used, each election board shall consist of not less than three members.

(b) The county clerk shall appoint the chairman of the board and shall appoint the other board members upon considering any recommendations made by the chairman pursuant to NRS 293.218.

(c) If a larger election board is required to accommodate the number of registered voters in any precinct, the county clerk may appoint as many additional members as are necessary or desirable to speed the voting process. (NRS 293.218, 293.227, 293.237, 293.240 and 293.247)

E–3 Schools for instruction of election board chairmen.

(a) Each county clerk shall conduct or arrange to have conducted, at least 5 days prior to the date of the election for which the election boards are appointed, a school for the chairmen of such boards to instruct them on the election laws of the State, the election regulations of the Secretary of State and the duties of election boards, including the procedure for making the records of election and using an election board register.

BILL DRAFTING AND AMENDMENT REQUEST

[Please use separate sheet for each request]

To the Legislative Counsel: A.J.R 4

From ASSEMBLY ELECTIONS COMMITTEE

Date 4-22-75

Please prepare a bill/amendment as follows:

Amend A.J.R. 4 by deleting the language contained in lines 6-10 and substituting in place thereof the following:

"or in the county, district, township, municipality or ward from which the officer was elected. For this purpose, a number of registered voters not less than twenty-five per cent (25%) of the number of persons who voted at the ~~State or in the county, district~~ last preceding statewide general election in the State or in the county, district, township, municipality or ward from which the officer was elected, shall file their petition, in the manner . . ."

I HEREBY CONSENT TO RELEASE OF THIS INFORMATION TO ANY LEGISLATOR BY THE LEGISLATIVE COUNSEL.

REQUESTER

200

Clark County Democratic Central Committee

MARGUERITE C. SEGRETTI
CHAIRMAN

LAS VEGAS, NEVADA

RUTH J. DAY
SECRETARY

April 14, 1975

Hon. Daniel Demers, Chairman
Assembly Elections Committee
Carson City, Nevada

Dear Assemblyman Demers,

The Legislative Action Committee of the Clark County Democratic Central Committee, meeting April 10, 1975, took the following actions:

AB 441 and SB 355, The Committee recommends against passage of both AB 441 and its Senate counterpart, SB 355. Based on discussions with Stanton Colton, Clark County Registrer of Voters, we believe the provisions of the bills are impractical, unworkable, and confusing.

We feel AB 521 allowing write-in votes in Nevada should be referred to an interim study committee for further consideration and clarification. The legislation should contain eligibility requirements for write-in candidates as well as the mechanism for handling such votes.

The Committee feels that AB 542, regarding Voter Information Pamphlets should be passed with the deletion of Sections 10 through 16 and the last line of Section 23. The committee also endorses the necessity for pro-con ballot issue information, but thinks the provisions relating to candidates, etc. are costly and could become complicated and confusing to the voter. With so many different races in each of the counties, the sample ballot should be retained.

Thank you and your committee for your consideration.

Sincerely,

Manny Cortez, Chairman
Legislative Action Committee

AJR14

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
SUPREME COURT BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

April 18, 1975

OPINION NO. 188

Initiative Petition--Article 19, Section 2, Paragraph 2 of the Nevada Constitution is an exercise in direct government by the people, who may place such requirements on introducing an initiative petition as will insure that such a weighty, expensive and time-consuming means of adopting legislation has a statewide interest rather than a local appeal. As such, the provision is constitutionally valid.

Honorable Daniel J. Demers
Chairman
Assembly Committee on Elections
Nevada Legislature
Carson City, Nevada 89701

Dear Mr. Demers:

You have requested an opinion on the constitutionality of Article 19, Section 2, Paragraph 2 of the Nevada Constitution, which requires initiative petitions to be signed by at least 10% of the number of voters who voted in the last general election in not less than 75% of the counties in the state, provided the total number of signers also equals at least 10% of the number of voters who voted in the entire state in the last general election.

QUESTION

Is Article 19, Section 2, Paragraph 2 of the Nevada Constitution constitutionally valid?

FACTS

Originally, this section of the Nevada Constitution required that initiative petitions be signed by only 10% of the number of voters in the state who voted in the last general election. The present section, requiring 10% signatures in at least 75% of the state's counties, was enacted in 1958 as the result of an initiative petition to amend the Constitution. The purpose of the 1958 amendment was to require for initiative petitions more signatures from a diversified area of the state, rather than allow initiative petitions to be of a localized nature. Wilson v. Koontz, 76 Nev. 33, 348 P.2d 231 (1960).

ANALYSIS

Similar diversification requirements to initiative petitions have been upheld in other states as not involving any invidious discrimination. Two Guys From Harrison, Inc. v. Furman, 32 N.J. 199, 160 A.2d 265 (1960). It has been stated that such diversification requirements are proper in that they insure that initiatives, or in some cases referendums, depend on a sufficiently widespread demand by voters of more than one political subdivision in the state and that initiative petitions have substantial support throughout the state. Opinion of the Justices, 326 Mass. 781, 93 N.E.2d 220 (1950); Phifer v. Diehl, 175 Md. 364, 1 A.2d 617 (1938). Such a diversification requirement was designed so that trivial matters should not be presented. There must be a sufficient interest so that a substantial number of people of the state desire the legislation proposed. In other words, the public interest in a proposed initiative must not be a local interest, but must be state-wide. State ex rel Graham v. Board of Examiners, 239 P.2d 283 (Montana, 1952).

However, all of these cases were decided before the "one-man, one-vote" decisions by the United States Supreme Court. Baker v. Carr, 369 U.S. 186 (1962); Gray v. Sanders, 372 U.S. 368 (1963); and Reynolds v. Sims, 377 U.S. 533 (1964) all held that a state may not make a classification of voters which favor residents of some counties over residents of other counties. All votes had to carry equal weight. Persons in rural areas could not constitutionally be given ten times more voting power than persons living in urban areas.

One such case applying the "one-man, one-vote" rule is Moore v. Ogilvie, 394 U.S. 814 (1968). That case dealt with an Illinois law which required independent candidates to obtain at least 25,000 names on a nominating petition, at least 200 of which had to be obtained from at least each of 50 counties, in order for the names of such independent candidates to appear on the ballot. Forty-nine of Illinois' counties contained 93.4% of the state's population. The remaining 6.6% of the population lived in the other 53 Illinois counties. Theoretically, therefore, 6.6% of the state's population could prevent the nomination of these independent candidates if at least 200 names from some of these 53 counties could not be obtained on the nominating petition, despite the fact that 93.4% of the state's population in 49 other counties wished to nominate these candidates.

The Supreme Court ruled that the Illinois law discriminated against the residents of the populous counties in favor of the rural counties and, therefore, it lacked the equality to which the exercise of political rights is entitled under the Fourteenth Amendment. The Supreme Court rejected the argument that the Illinois law was designed to require statewide support for launching a new political party rather than support from a few localities.

> "This law applies a rigid, arbitrary formula to sparsely settled counties and populous counties alike, contrary to the constitutional theme of equality among citizens in the exercise of their political rights. The idea that one group can be granted greater voting strength than another is hostile to the one man, one vote basis of our representative government." Moore v. Ogilvie, supra, at 818-819. (Emphasis added).

However, a distinction can be made between the "one-man, one-vote" decisions and the initiative provisions of our Constitution. The essence of the "one-man, one-vote" decisions are that they are concerned with preserving representative government. In a representative government, the people do not act directly. They elect representatives to act for them. As such, it is important that the representatives accurately reflect the population that elects

them. A minority of the people cannot have more representation than that to which they are entitled.

An initiative, however, is an exercise in direct government. The people directly propose legislation and the people directly enact legislation through an initiative. As such, the adoption of an initiative and referendum procedure changes the existing form of government with respect to legislating. The legislature and the people then serve as coordinate legislative bodies, neither being superior to the other. 42 Am.Jur.2d Initiative and Referendum, § 2. The people in enacting initiative measures are acting as legislative bodies, with the same sovereignty as the legislature. Attorney General's Opinion No. 153 of December 21, 1934. The generally accepted view is that this system of direct legislation which has been in common use throughout the various state governments since their inception is clearly consistent with a republican form of government, even though it may deprive the legislature of some law-making power or powers held by it at the adoption of the Federal Constitution. 16 Am.Jur.2d, Constitutional Law, § 393.

It is, of course, a constitutional requirement, under the "one-man, one-vote" decisions, that a legislature must accurately reflect the population make-up of the state. This is for the reason that when the legislature actually enacts a measure into law, no portion of the state will have greater voting power than another. The same constitutional requirement holds true when the people actually vote on an initiative question. However, introducing legislation and enacting legislation are two (2) different things.

A legislature determines its own rules of procedure. Nevada Constitution, Article 4, Section 6; 50 Am.Jur. Statutes, § 65. A legislature may make such rules as it sees fit with regard to introducing legislation. In this respect, then, the Nevada Legislature, through its committee system and its rules for introducing legislation, allows representatives of less populated districts to have some influence over legislation that may affect the interests of their constituents. In this manner, minority rights are granted some protection. The same reasoning may be applied to introducing an initiative measure.

Therefore, the people, acting directly as a legislative body through the initiative, may provide for themselves that support for introducing proposed initiative legislation must be found in three-fourths of the state's counties. In fact, this was done in 1958 when the people themselves proposed and adopted the current form of Article 19, Section 2, Paragraph 2. Such a provision is in accord with the reasoning of the cases cited above which upheld diversification requirements for introducing initiative petitions. The need to protect minority rights, the necessity of justifying the expense and time necessary for an initiative election, require that there be first shown a statewide interest or support for the introduction of something as weighty as an initiative petition. Wilson v. Koontz, supra; Opinion of the Justices, supra; State ex rel Graham v. Board of Examiners, supra.

Whether such a distinction between the "one-man, one-vote" decisions and the nature of initiative legislation would be recognized and upheld by the courts is unknown. This office cannot answer that question as litigation on this particular problem has not yet arisen since the "one-man, one-vote" cases were decided. In such circumstances, it has always been a general rule of law that a state's constitutional and statutory enactments are presumed constitutional and a court will not declare them unconstitutional unless there is clear evidence of their unconstitutionality. King v. Board of Regents, 65 Nev. 533, 200 P.2d 221 (1948); Ex parte Iratacable, 55 Nev. 263, 30 P.2d 284 (1934); Ash v. Parkinson, 5 Nev. 15 (1869). This office has followed this rule of law in the past. Attorney General's Opinion No. 93 of August 21, 1972; Attorney General's Opinion No. 131 of May 9, 1973. Indeed, the Attorney General has taken an oath to support, protect and defend the Constitutions and governments of the United States and Nevada and, therefore, has a positive duty to reconcile the laws of this state with the Nevada and Federal Constitutions and to uphold and defend them whenever possible.

It is also worth noting that the United States Supreme Court has retreated somewhat in its "one-man, one-vote" decisions. Maham v. Howell, 410 U.S. 315 (1973) indicated that inequality in voting strength among various areas in a state may be tolerated if the state has some rational basis for the inequality, among which may be consideration of insuring some voice to political subdivisions. In this respect, a three judge federal court, considering

Nevada's reapportionment plan, stated that, because of peculiarities in Nevada's geography and population make-up, the state had a legitimate basis in preserving the integrity of county boundaries and communities of interest in rural areas. Stewart v. O'Callaghan, 343 F.Supp. 1080 (1972).

CONCLUSION

A distinction can be made between the "one-man, one-vote" decisions and the constitutional provisions for an initiative petition. Initiatives are an exercise in direct government and there exists a rational basis for requiring a statewide interest as a condition for introducing such legislation. Accordingly, it is the opinion of this office that Article 19, Section 2, Paragraph 2 is a valid constitutional provision.

Sincerely,

ROBERT LIST
Attorney General

COMMITTEE ON ELECTIONS (STATUS REPORT) March 18, 1975

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BILL	Committee Action	Status
AJR 1 of the 57th Session	do pass	signed by Governor
AJR 2	do pass	on second reading
AJR 4	holding pending Counsel Bureau clarification	
AJR 14	holding pending Attorney Generals opinion	
A.B. 14	do pass	refered back to Committee
A.B. 18	do pass	in Committee on Ways and Means.
A.B. 25	do pass	signed by Governor
A.B. 32	do pass	killed on floor
A.B. 33	In subcommittee	
A.B. 52	holding (hearings held)	no further action contemplated
A.B. 72	holding (hearings held)	no further action contemplated
A.B. 84	do pass	In Senate
A.B. 87	holding pending Counsel Bureau clarification	
A.B. 169	do pass	In Senate
A.B. 291	do pass	on second reading
A.B. 294	In subcommittee	
A.B. 336	holding (hearings held)	
A.B. 398	hearings scheduled 3/25/75	
A.B. 406	hearings scheduled 3/25/75	
A.B. 410	hearings scheduled 3/25/75	
A.B. 416	hearings scheduled 3/25/75	
SJR 14	hearings scheduled 4/1/75	