

MEMBERS PRESENT: Chairman Horn
Vice-Chairman Bedrosian
Mr. Barengo
Mrs. Cavnar
Mr. Harmon
Mr. Hickey
Mr. Malone

MEMBERS ABSENT: None

GUESTS PRESENT: John Marvel, Assemblyman
Don Mello, Assemblyman
Virgil Getto, Assemblyman
Lawrence Jacobsen, Senator
Stan Colton, State Treasurer
Hal Dunn, Carson City Sheriff
Brent Howerton, Nevada Highway Department
Joseph Souza, Nevada Highway Department
Don Crosby, Nevada Highway Department
Jack G. Warnecke, Carson City Supervisor
Gwen R. Chase, Carson City Clerk
Ted Thornton, Carson City Clerk
Frank W. Daykin, Legislative Counsel

Mr. Horn called the meeting to order at 3:00 p.m. and said that out of courtesy to Assemblyman Marvel who had a Taxation Committee meeting the committee would consider AB 114 first.

AB 114: Clarifies appointment and duties of deputy registrars of voters.

Assemblyman Marvel explained that AB 114 was submitted to him by the request of the District Attorney of Humboldt County, William Macdonald. Because of a problem in registration of an ethnic group at Fort McDermitt in Humboldt County, a suit was threatened between the Federal Government and Humboldt County. He said that what AB 114 would do is clarify the language of NRS 293.505 by giving the county clerks more discretion in the appointment of deputy registrars and more authority to issue the rules and regulations of who, when and how to register.

Since there was no further testimony or questions, Mr. Horn stated the committee would now consider AB 13.

AB 13: Prescribes order of offices and questions on ballots for general elections.

Assemblyman Mello stated that because of the inequities in the ballots for the last general election, he felt this bill was needed. He showed the committee sample ballots from Washoe County and from Clark County copies of which are attached to these minutes as Exhibit A (Washoe County) and Exhibit B (Clark County). He pointed

out the differences in the order of listings on the ballots and said that in all the years he had been running for office he had never seen a ballot quite like that of Washoe County. He added that he had talked with people from other counties and found that their ballots were similar to Clark County. He said that in discussing this bill with Stan Colton, former Registrar of Voters in Clark County, Mr. Colton had found some inequities in the bill. Mr. Mello stated that he felt that the inequities of having the legislature split on the ballot should be corrected. He added that it was his feeling that the questions should be last on the ballot so that voters would have to go through the entire ballot before deciding on the questions.

Mr. Mello said that Mr. Colton would point out the necessary amendments to the bill and the reasons for them.

Mr. Colton stated that there were not really inequities but problems in consistency between the primary and general election. He gave each committee member a ballot frame assembly from Carson City for the general election. He said that under present state laws in the primary election the ballots for the partisan offices and the non-partisan offices must be separate. The bill as proposed by Mr. Mello intermingles the partisan and non-partisan offices creating an inconsistency between the primary and general election.

The amendments as proposed by Mr. Colton would change the order on the ballots as follows:

- (a) Statewide partisan offices.
- (b) State senators and assemblymen.
- (c) County and township partisan offices.
- (d) Statewide non-partisan offices.
- (e) State district non-partisan offices.
- (f) Township non-partisan offices.
- (g) Questions presented to the voters of the state.
- (h) Questions presented only to the voters of a particular special district or political subdivision of the state.

Mr. Horn asked if this would work well with the punch card system.

Mr. Colton replied that this would work well and is consistent with the present law.

Since there was no further discussion on AB 13, Mr. Horn asked Assemblyman Getto to explain his bill, AB 89.

AB 89: Authorizes posting of temporary political signs near time of election with few restrictions.

Mr. Getto said he had introduced this bill because the situation that it would correct has been very irritating to candidates throughout the state. He added that the bill is a draft nightmare and much of it must be eliminated and new language added.

He said that in subsection 2 they were not presuming to allow signs on highway right-of-ways and he has an amendment to change this language.

He explained that political signs for politicians is as american as apple pie and that in the rural counties they are the best way of campaigning, whereas in urban areas television is available. He added that during the last election because of federal regulation political signs were supposedly not allowed. He explained that the Department of Highways did try to control this in four counties as an experiment, that it cost about \$6,000 and was almost an impossibility. He explained that the intent of this bill was to allow candidates to display political signs within a certain time limit without cost.

Mr. Getto said that the one problem with this bill is the possibility of losing ten percent of federal highway money by not complying with federal regulation, and Section 7 would render this bill invalid if federal grants were threatened.

Mr. Getto then outlined the necessary amendments to AB 89 as follows: On page 1, delete line 7 and insert "between the 60th day before the primary election and the 30th day after the general election." He said that the reason for this was that it was difficult on a statewide campaign to remove signs within 10 days.

Mr. Horn noted that the word "candidate" was misspelled on line 3.

Mr. Getto further explained that Section one, page 1 should be amended by deleting lines 11 through 13 and inserting "the sign, display or device may be posted within view of the highway, road or street if the owner of the property on which it is placed consents but it must not be erected on the right-of-way." He stated that Section 2 should be completely deleted, Section 3 becomes Section 2, Section 4 should be completely deleted, Section 5 becomes Section 3, Section 6 becomes Section 4, and the remainder of the bill is as printed.

Mr. Barengo questioned the legality of what will be Section 5 (now Section 7).

Mr. Getto stated that Frank Daykin, Legislative Counsel, said this had been done in other legislation. The committee felt that Mr. Daykin should be called to clarify the legality of this section.

Mr. Bedrosian questioned why, since the highway department was unable to effectively enforce the displaying of political signs, should Nevada formally condone this action and risk losing ten percent of highway funds. He further questioned why Nevada should be on record as violating the 1965 Highway Beautification Act.

Mr. Getto explained that Section 7 is our protection and that, philosophically, he personally would like to stand up to the federal government.

Mr. Hickey stated that he felt the committee should have the amendments before a meaningful discussion could take place.

Mr. Bedrosian asked if the individual politician would be liable for breaking the law rather than the State of Nevada.

Mr. Getto replied that no candidates were prosecuted last election, and he felt the highway department would probably ignore the signs and in so doing would be ignoring a law that exists. He added that candidates found they could skirt the law very easily by moving their signs before the end of the thirty-day notification period. He explained that an alternate highway runs in front of his home and he was not able to erect a sign on his own property without a permit and inspection fee costing \$33.

Senator Lawrence Jacobsen representing Carson City and Douglas County stated that he was probably under the gun more than anyone because the Carson City district was one of the ones that tried to enforce political sign laws. He said he felt there was definitely a need for clarification in this area as it became a confusing and costly issue mainly because of the impossibility of enforcement. He added that many candidates did not obtain permits and were in violation, that it was possible to erect a sign for twenty-nine days and then move it to a new location for another twenty-nine days. He stated that he personally would like to see the signs restricted, that they did become a hazard for traffic and pedestrians, that he did not want to do anything to put highway funds in jeopardy. He definitely felt that this problem should be addressed this session, not only for the candidates but also for those who must enforce it. He said that he understood that candidates in the southern part of the state were not faced with these problems, that the law was not enforced there. He said that in his area in Douglas County there are still signs standing and it certainly had been more than thirty days.

In answer to Mr. Hickey's question of whether he supported this bill, Mr. Jacobsen stated that he supported the concept.

Mr. Bedrosian asked if this franchise were granted to politicians what will keep commercial interests from asking for the same privilege.

Mr. Jacobsen stated that he felt signs should be restricted as to size and placement for both politicians and the private sector.

Mr. Horn thanked Mr. Jacobsen and introduced Mr. Frank Daykin, Legislative Counsel.

Mr. Getto explained to Mr. Daykin that the committee questioned the legality of Section 7 of AB 89 and how it would work.

Mr. Daykin said that this was a situation that Justice Jackson once described as earthy and unprincipled. He told the committee that everything preceding Section 7 could be enacted, but there was a question in the minds of the staff whether enactment would

cause in some situations the forfeiture of federal subsidy for roads which amounts to about 95% of the money spent by the Highway Department. He explained that Section 7 is a safety clause which makes ineffective those changes to which the federal government might object. He added that this would allow for removal of only those changes that would effect federal grants. For example, these provisions might apply only to state routes and county roads, not to federal highways, or if prohibition were broader and included all primary federal aid roads, then the provisions would only apply to roads without primary federal aid.

Mr. Daykin added that he felt it was valid in that it was not a delegation of legislative power, but rather a direction to the authorities administering the act.

Mr. Barengo asked if this type of legislation has been upheld.

Mr. Daykin replied that other areas are operating under such a clause now, that as in this bill it is simply a provision of the session law.

Mr. Bedrosian asked if it were common practice to use this clause in other legislation pertaining to federal funding.

Mr. Daykin replied that it was done only in a situation where there is some reason to believe that the substance of the legislation may contravene some federal regulation, and the regulations concerning signs along the road are rather stringent.

Mr. Horn asked what would happen if Section 7 were omitted from the bill.

Mr. Daykin answered that we would be saying as a matter of positive law signs may be posted, and if that posting results in the loss of federal money, that money would be lost.

Mr. Barengo stated that he thought it strange that Mr. Getto could not place a sign on his own property.

Mr. Daykin replied that in his opinion, if the case were brought to court, it would be won. He added that the federal government does not put itself in the position of prohibiting the signs as a matter of federal law, but says unless the states do this the federal funding will be cut.

Mr. Getto said that he felt that if some type of legislation was not passed, the Highway Department absolutely could not enforce sign placement. He added that they tried it in four counties and found it impossible; seventeen counties would really be impossible even putting their whole staff to work on it. He asked if it was better to ignore the law or to try legislation such as this.

Mr. Bedrosian said that as it currently exists it is an informal situation and is violated by individual candidates. He asked that if it was written into law would we be inviting federal sanctions because the state would become the defendant rather than individuals.

Mr. Daykin answered that this was not so much a legal question as a political one. He felt that if this were enacted into law, there was a possibility that the Federal Government would undertake to withdraw, but then there would be a better chance of having a test case in court because the state could challenge the withdrawal of the money.

Mr. Hal Dunn, Sheriff of Carson City, stated that he felt there was a great inequity in that a multi-million dollar business paid the same fee as a candidate for placement of a sign, and a business could leave its sign in place year after year for only \$8 per year whereas a candidate must pay the full fee each year for a new permit. He added that there were inequities in the placement of signs in that even though a landowner wanted more than one sign on his property, only the first permittee was allowed. He pointed out that he did not feel the 660' ruling which says a sign must be at least 660' from the highway was fair, that a 4 x 4 sign was hardly visible at that distance. He felt that the 30-day grace period was inequitable in that candidates were placing their signs for twenty-nine days and then moving them on the same property.

Mr. Dunn said that in regard to the proposed amendments, he felt the 60-day before the primary provision was fine, but in a county or district election, the 10-day provision would be sufficient for removal. He added that in a statewide election the 30-days would probably be necessary. He added that he felt there should be some restriction on the number of signs per square foot and on the total number of signs per highway.

Mr. Jack Warnecke, Carson City Supervisor, stated that he considered all signs a form of pollution but that he did realize they contributed to a candidate's name identification. He said that he proposed to the Carson City Supervisors a modification of the sign control ordinance which says: (1) No signs larger than 10 square feet without a special use permit; (2) No candidate would be allowed to have more than an aggregate of 1,000 square feet of signs in all sizes; and (3) Signs can only be posted with permission of property owners. He feels that with a sensible limit on signs everyone can cut the cost of elections and abide by the same restrictions. He said he is in favor of a restriction on the number of signs, of eliminating the 32 sq. ft. signs because of the obstruction to traffic and pedestrians. He added that he did not feel the state should be regulating urban areas.

Mr. Joseph Souza from the State Highway Department said he had brought Mr. Brent Howerton who has been in charge of the controlled signs throughout the state. He said that the rules and regulations of sign placement, etc., had been sent to each candidate with the hope of compliance. He added that the problem which developed was that the candidate knew the law but his workers did not.

Mr. Hickey asked what the people who enforced these regulations did other times of the year.

Mr. Brent Howerton answered that the Highway Department had utility inspectors in each of the six highway districts with the exception of Tonopah. He added that one of the duties of these inspectors is to provide the enforcement for the outdoor advertising control program which involves processing sign permits on a district level, periodic inventory surveillance of all primary and interstate mileage within his district to determine what signs are in conformance, what signs are new, what signs may be damaged, etc.

In answer to Mr. Hickey's question as to whether this was a full time job, Mr. Howerton answered that only in Reno and Las Vegas was it a full time position. He added that during the last election they had used one of their staff members.

Mr. Horn asked Mr. Howerton to give an overview of their outdoor advertising program and to address the statement that the state should not be in the business of regulating signs.

Mr. Howerton stated that the Highway Department was mandated by congressional act and federal regulation to control outdoor advertising signs adjacent to primary and interstate highways within the State of Nevada both in and out of urban areas. He added that this program did not require the removal of all signs but does confine outdoor advertising signs to commercial and industrial areas. He said that the program is part of a beautification program to remove signs from the rural countryside.

He said that the Highway Department tried to enforce the regulations in a four-county area at a cost of \$6,000 and four man-months. He added that \$700 in permit revenue was collected.

He stated that his office had submitted a draft of this bill to the Federal Highway Administration for their review and their response was that there is no provision under federal law to exempt political signs and passage of the bill would quite possibly invoke the ten percent penalty. A letter in response to the Highway Department's proposal for legislation (Exhibit C) and a letter in response to proposed AB 89 (Exhibit D) both from the Nevada Division of the United States Department of Transportation are attached to these minutes.

Mr. Howerton further stated that there was no provision under their federal regulations to create a special class for signs for political advertising and creation of a special program would cause the state to incur penalties. He added that the provision in the unamended AB 89 allowing signs on the rights-of-way would very nearly bring their highway program to a complete halt as far as federal funds were concerned. He said that in order to build a federal highway project, they must certify that the right-of-way can be adequately controlled.

Mr. Horn asked how much the 10 percent penalty would mean in dollars and cents.

Mr. Howerton replied that at the present time it would amount to 11 million dollars annually which would mean 98 million instead of 109 million dollars.

Mr. Malone asked why, if inspectors were already on the payroll, did it cost \$33 for a permit.

Mr. Howerton replied that they were trying to recover some of the money being paid to these people devoting their time to this program. He explained that annually they have been receiving about \$8,000 in revenues from permits and inspection fees and this would in no way cover the cost of maintaining the program.

Mr. Hickey asked if any part of this program were federally funded.

Mr. Howerton answered that the maintenance of the permit system and inventory surveillance is state funded and the acquisition of non-conforming signs is federally funded.

Mr. Bedrosian said that he did not feel that this was a question of freedom of speech or religion but that this law was originally passed with the intent of keeping the vistas of America clear and free of visual pollution, and he feels that it is sad that one of the first groups that try to violate this intent are candidates and politicians, the very people who should be trying to protect the rights of persons rather than violating them.

Mr. Getto asked Mr. Howerton if this bill was not passed and his department was unable to enforce the sign law, would this put our funds in jeopardy.

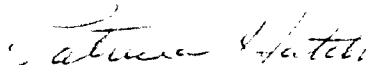
Mr. Howerton replied that he thought not, that this was a national problem and the government would have to make more funds available for enforcement.

Mr. Horn stated that the committee would hold this bill over to the next meeting on February 5 and asked Mr. Getto to draft the amendments that he suggested.

Mr. Horn then asked Mr. Hickey to have the amendments to AB 13 drafted. He announced that the committee would discuss AB 89 first on February 5 and also would hear testimony on AB 145 and 147. He scheduled AJR 8 of the 59th Session and AB 212 for Monday, February 12, and AB 109 and AB 189 for February 26.

There being no further business, Mr. Horn adjourned the meeting at 4:34 p.m.

Respectfully submitted,



Patricia Hatch
Assembly Attache

Library Note:

During the examination of this set of minutes, Exhibits A and B were found to be missing. They also appear to have been missing at the time this set of minutes was hand numbered, as the numbering does not have a gap where these exhibits should be. The exhibits are also missing from the microfiche.

Research Library
July 2010

Nevada Division
1050 East Williams Street
Suite 300
Carson City, Nevada 89701

510.8

January 26, 1979

Subject: Outdoor Advertising Control -
Assembly Bill No. 89

Mr. Joseph A. Souza
State Highway Engineer
Carson City, Nevada

Dear Mr. Souza:

This is in response to your January 25, 1979 letter requesting our comments on Assembly Bill No. 89 which authorizes posting of temporary political signs near time of election with few restrictions.

The Highway Beautification Act does not allow exception for temporary political signs. Therefore, if this Bill is passed, Nevada would be in violation of 23 U.S.C. 131. Basically the law only allows for directional and official signs and notices on the highway right-of-way. Since temporary political signs do not meet this criteria they will not be allowed on the highway right-of-way.

With respect to temporary political signs off the highway right-of-way only certain signs may be permitted in protected areas. Temporary political signs are not one of those signs allowed. Since AB 89 would allow temporary political signs in protected areas it would be in violation of the Highway Beautification Act (23 U.S.C. 131).

The Highway Beautification Act requires the Secretary of Transportation to determine if a State has provisions for effective control of the erection and maintenance of outdoor advertising signs, displays, and devices. If a State does not have effective controls the Secretary will reduce the States' Federal-aid highway apportionment by 10% annually.

Sincerely yours,

A. E. Stone
Division Administrator