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ASSEMBLY COMMITTEE ON ELECTIONS, PROCEDURES, AND ETHICS



WORK SESSION DOCUMENT

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ASSEMBLY ELECTIONS, PROCEDURES, & ETHICS
DATE: 4-8-03 ROOM: 3138 EXHIBIT D
SUBMITTED BY: Michelle Van Geel



WORK SESSION

Assembly Committee on Elections, Procedures, and Ethics

PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU
Nonpartisan Staff of the Nevada State Legislature

April 8, 2003

-
- Assembly Bill 292 _____
 - Assembly Bill 298 _____
 - Assembly Bill 410 _____



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WORK SESSION

Assembly Committee on Elections, Procedures, and Ethics

April 8, 2003

The following measures will be considered for action by the Assembly Committee on Elections, Procedures, and Ethics during a work session on Tuesday, April 8, 2003:

ASSEMBLY BILL 292

Prohibits political subdivisions from challenging initiative petitions, referendums or recalls under certain circumstances. (BDR 24-329)

Sponsored by: Assemblyman Bernie Anderson

Discussion

Assembly Bill 292 was heard by the Committee on March 27, 2003. Assemblyman Anderson presented the bill to the Committee. The bill expressly prohibits a political subdivision of this state from challenging an initiative petition, a referendum petition, or a petition for the recall of a public officer under certain circumstances.

Proposed Conceptual Amendments

1. Section 1, Subsection 2—add language as proposed in amendment under Tab A (proposed by Nicole Lamboley, City of Reno).
2. Section 1, Subsection 2—add language broadening the bill to prohibit private parties from challenging an initiative petition, a referendum petition, or a petition for the recall of a public officer, by adding “or any other entity” (or other similar language) after the word “state” on page 1, line 8 (proposed by John Garvin, Co-Chairperson, Sustainable Growth Initiative Committee).
3. Section 1, Subsection 2—add language requiring the Attorney General to determine procedural flaws in an initiative, not the local governments (proposed by Laura Mijanovich, ACLU).
4. Add language allowing the citizens who proposed a petition to recover legal expenses if they prevail in court (proposed by Patty Cafferata and Mike Robinson).

ASSEMBLY BILL 298

Prohibits state and local governments from paying for certain publications, advertisements and television programming that are reasonably likely to affect outcome of election. (BDR 24-408)

Sponsored by: Assemblyman David Parks

Discussion

Assembly Bill 298 was heard by the Committee on March 27, 2003. Assemblyman Parks presented the bill to the Committee. The bill prohibits state and local governments, under certain circumstances, from paying for publications, advertisements, and television programming that are reasonably likely to affect public opinion on a contested matter of public policy. The measure also prohibits state and local governments, under certain circumstances, from paying for publications, advertisements, and television programming that prominently feature current public officers who are candidates for elective office.

Proposed Conceptual Amendments

1. Insert new language (see Tab B) allowing television programming providing a forum for discussion or debate on a ballot question as long as persons representing support of and opposition to the ballot question (proposed by Dan Musgrove, Clark County).
2. Amend the bill as a whole by adding new language pertaining to Chapter 281 of the *Nevada Revised Statutes*, Ethics in Government (proposed by Assemblyman David Parks).

ASSEMBLY BILL 410

Makes various changes relating to elections. (BDR 24-945)

Sponsored by: Assemblyman Rod Sherer

Discussion

Assembly Bill 410 was heard by the Committee on March 25, 2003. Assemblyman Sherer presented the bill to the Committee. The bill requires that a person who maintains a residence in another state must agree to forfeit his residency in the other state for voting purposes. Additionally, A.B. 410 authorizes certain new residents of Nevada to vote for all federal and statewide offices. Further, the bill provides that residency requirements include an intent to remain a resident. Assembly Bill 410 also revises the contents of an application to register to vote and requires, under certain circumstances, county clerks to send a notification of cancellation to the respective office in another county or state where the elector previously registered to vote.

Proposed Conceptual Amendments

1. Delete Section 3, which proposes to authorize certain new residents of Nevada to vote for all federal and statewide offices (proposed by Assemblyman Sherer).
2. Delete Section 7, which proposes to repeal NRS 298.259 concerning voting by new residents (proposed by Assemblyman Sherer, if Section 3 is deleted).
3. Delete new language in Section 4 regarding intent to remain and actually reside (proposed by Larry Lomax, Clark County Registrar, and Dr. Richard Siegel, ACLU).

Amendment to AB 292

Proposed by the City of Reno

Contacts: Nicole Lamboley 775/762-0763

Susan Fisher 775/742-7080

Dave Howard 775/771-6075

Section 1.

2. The government of a political subdivision of this state or an agency of a political subdivision of this state shall not commence a legal action ~~or take any other action~~ to challenge an initiative petition, a referendum petition or a petition for the recall of a public officer on grounds other than that:

- a. The number of signatures on the petition is insufficient;*
- b. The petition is in an incorrect form; ~~or~~*
- c. The petition was prepared in any other manner that was procedurally incorrect; ; or*
- d. The petition is unconstitutional or otherwise illegal*

before the petition is presented to the voters as a ballot question.

**Assembly Bill 298
(As Introduced)**

SUGGESTED AMENDMENT

Proposed by CLARK COUNTY NEVADA
Contact person: Dan Musgrove (702) 860-9900

Amend section 1, page 2, after line 27, by inserting:

"5. The provisions of subsections 1 and 2 relating to ballot questions shall not prohibit an expense or expenditure by an entity specified in subsection 1 for the creation or dissemination of television programming which provides a forum for discussion or debate on a ballot question so long as persons both in support of and in opposition to the ballot question participate in such forum."

Amend section 1, page 2, line 28, by deleting "5." and inserting "6."

PROPOSED AMENDMENT TO A.B. 298

Amend the bill as a whole by adding a new section designated sec. 2, following section 1, to read as follows:

“Sec. 2. NRS 281.481 is hereby amended to read as follows:

281.481 A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employeē shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any member of his household, any business entity in which he has a significant pecuniary interest, or any other person. As used in this subsection, “unwarranted” means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.

5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.

7. A public officer or employee, other than a member of the Legislature, shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of his public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

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If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A member of the Legislature shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of his public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the Legislator or legislative employee to perform his official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts through the use of his official position.

11. A public officer or employee shall not request or otherwise cause the government of this state or a political subdivision of this state or an agency thereof to incur an expense or make an expenditure to support or oppose a ballot question or a candidate. For the purposes of this subsection, an expense incurred or an expenditure made by such an entity shall be considered an expense incurred or an expenditure made in support of a candidate if:

(a) The expense is incurred or the expenditure is made for the creation or dissemination of a pamphlet, brochure or advertisement that prominently features the activities of a current public officer of the entity who is a candidate for a state, local or federal elective office; and

(b) The pamphlet, brochure or advertisement described in paragraph (a) is created or disseminated after the current public officer files a declaration of candidacy or acceptance of candidacy and before the date of the general election, general city election or special election for the office for which the current public officer is a candidate.

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As used in this subsection, a "pamphlet, brochure or advertisement" does not include a press release issued to the media by such an entity or the official website of such an entity."

Amend the title of the bill, fourth line, after "office;" by inserting:
"prohibiting a public officer or employee from requesting such payments;"