

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

**Seventy-third Session
May 5, 2005**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara Cegavske at 2:09 p.m. on Thursday, May 5, 2005, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Barbara Cegavske, Chair
Senator William J. Raggio, Vice Chair
Senator Warren B. Hardy II
Senator Bob Beers
Senator Dina Titus
Senator Bernice Mathews
Senator Valerie Wiener

GUEST LEGISLATORS PRESENT:

Assemblyman Marcus Conklin, Assembly District No. 37
Assemblyman Bob McCleary, Assembly District No. 11
Assemblyman Harry Mortenson, Assembly District No. 42

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Michael Stewart, Committee Policy Analyst
Elisabeth Williams, Committee Secretary

OTHERS PRESENT:

Larry Lomax, Registrar of Voters, Elections, Clark County
Alan Glover, Clerk/Recorder, Carson City
Lucille Lusk, Nevada Concerned Citizens
Richard L. Siegel, President, American Civil Liberties Union of Nevada

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Lynn P. Chapman, Nevada Eagle Forum
Janine Hansen, Independent American Party
Kimberly McDonald, City of North Las Vegas
Karen L. Storms, City Clerk, City of North Las Vegas
David J. Fraser, Nevada League of Cities

Chair Cegavske opened the hearing on Assembly Bill (A.B.) 455.

[ASSEMBLY BILL 455 \(1st Reprint\)](#): Makes various changes related to elections.
(BDR 24-1334)

Assemblyman Marcus Conklin, Assembly District No. 37, gave an overview of A.B. 455 using a summarized document ([Exhibit C](#)). He said sections 11 and 52 of the bill would change the date of the primary election from the first Tuesday of September to the third Tuesday in June. He said the original plan called for the date to be changed to the first Tuesday in June, but due to a discrepancy with the county clerks concerning filing dates, the date was moved to the third Tuesday. Senator Beers asked if the filing date would also be changed by A.B. 455. Mr. Conklin said the filing time would be shortened from two weeks to one week. He said the changes in section 34 and section 36 of A.B. 455 caused some concern with the county clerks, and he was aware of those concerns. He said the change in section 5 which stipulates an appeal be made to the First Judicial District Court within seven days was originally designated as three days, but the American Civil Liberties Union (ACLU) said a minimum of seven days was absolutely necessary. He said people deserved the right to appeal, but he did not want the entire election process delayed because of the appeal process.

Mr. Conklin explained that some people had expressed a desire to change the provisions in sections 25 through 27 and sections 43 through 45 of A.B. 455 to make the absentee ballot permanent. He said recent problems with absentee ballots made permanency impossible. Mr. Conklin said the changes allowing nonresident college students to serve on an election board were important because the county clerks needed as much assistance as possible during an election. He said a student should not be excluded from assisting the clerks because he or she is not a resident of the State. Mr. Conklin said if nonresident college students can work in the State, there is no reason to exclude them from assisting the county clerks during an election.

Chair Cegavske asked Michael Stewart, Committee Policy Analyst, to explain what section 2 of A.B. 455 would do. Mr. Stewart said section 2 would keep a record of the voter registration forms and a tally of how those forms come in and out of the clerks' offices. Mr. Conklin said a person can get a large number of voter registration forms and register people with those same forms. He said that person can then choose which forms are to be turned in, and there is no control over the missing forms or the ability to know whose form was missing. Mr. Conklin said section 2 of A.B. 455 would create a trail for when the voter registration forms leave the office. Chair Cegavske said *Nevada Revised Statute* (NRS) 293.443 states clerks may charge for more than 50 voter registration forms; and she asked if that would still apply if the changes were made from A.B. 455. Mr. Conklin said they would still apply, but he said he felt no fee should ever be paid for voter registration forms. Brenda J. Erdoes, Legislative Counsel, said the NRS would still apply unless it was repealed or if it directly conflicted with the provisions in A.B. 455.

Chair Cegavske asked if the clerks would be responsible for enforcing the provisions in sections 3, 13, 38, 39 and 48 through 51 of A.B. 455 regarding the ability to file for office. Senator Beers said there were provisions in the bill stipulating a full disclosure statement be made when making a declaration of candidacy. Ms. Erdoes said if the clerk had a record of an individual's failure to file a financial report, a financial disclosure statement or to pay a civil penalty associated with failure to file such reports in a timely manner, the clerk would be obliged to deny the declaration of candidacy.

Chair Cegavske asked if the Senate had sent a bill to the Assembly regarding provisional ballots. Mr. Stewart explained the Committee had debated on whether to extend provisional balloting to other than federal races and the Committee had chosen to keep the balloting in strict adherence to the Help America Vote Act of 2002.

Senator Beers said he had an old stack of voter registration forms from a previous election in his office, which were thrown away. He asked how the new provisions in A.B. 455 regarding the registration forms would affect that type of situation. Mr. Conklin said he, personally, did not have a problem with the old registration forms Senator Beers had thrown away. Mr. Conklin said the purpose of the proposed tracking number was to close the loop on the forms.

Larry Lomax, Registrar of Voters, Elections, Clark County, said he supported all but one item in A.B. 455. He said he wanted to ensure the language in section 2 of the bill would not require unlimited registration forms be given out to people who requested them. He said line 10 in section 2 of A.B. 455 was not necessary, but he wanted to ensure a reasonable limit could be applied to the amount of registration forms distributed. Senator Raggio asked what the current situation was in regard to voter registration forms. Mr. Lomax said the current registration forms were already numbered with identifying serial numbers. Mr. Lomax said most of the clerks already tracked who received registration forms. He said the people who received the forms should be required to track the forms outside of the office. Senator Beers asked how Mr. Lomax's office kept track of those who receive a particular range of numbers. Mr. Lomax said if a person came to the office and requested more than 50 registration forms, that person must fill out a form stating the purpose of the registration forms. He said the office then tracked which forms were given and kept a running log on those forms. Senator Beers asked how the Clark County office conducted the running log from two office locations. Mr. Lomax said the logs were consolidated into one. Mr. Lomax said the current problem with the voter registration forms was there was no way to track down someone who was supposed to file the form on another's behalf and did not file it. He said the proposal in A.B. 455 would allow for a printed name to be written in, which would allow the clerks to track down the individual if that person's voter registration form could not be located. Senator Beers asked how the bill would help. Mr. Lomax said the name would allow the office to locate a responsible individual.

Mr. Lomax said section 5, subsection 4 of A.B. 455 needed to be changed because the current proposal would result in unnecessary delays in any election proceedings. He said some limits needed to be placed upon the extended time for petitions because there had to be time to print the ballots. Senator Beers asked what would happen if the language was amended to state if a petitioner's appeal for being unlawfully denied access to a building in order to gather signatures was granted by a court, then the petition was automatically approved to go on the ballot. Mr. Lomax said his responsibility was to administer the election, and he would do so with the required regulations.

Senator Beers asked if moving the primary elections to August and not changing the filing date for candidates would help the clerks. Mr. Lomax said even one week would help his clerks. Mr. Lomax said the existing problem was with the length of time between the deadline for filing for candidacy and the appeals and

court decisions, which could take over a month. He said if that time frame could be tightened up, it would make things better. Chair Cegavske asked if there were requests in previous Legislative sessions to move the date of the primary election up. Alan Glover, Clerk/Recorder, Carson City, said in a previous session, a request had been made to move the primary election up two weeks. Mr. Glover said it is helpful any time the election is moved up.

Mr. Glover said section 34 of A.B. 455 was impossible for his office to comply with because of the time frame. He said if the deadline for registering to vote were extended as stated in the bill, people would be able to file up to three days prior to early voting. He explained the problem with this was people might not receive their sample ballots until two weeks after the deadline, making it difficult for them to vote early. He said the provision in the bill would also allow people to register at the Department of Motor Vehicles (DMV), causing a delay between the DMV sending the voter registration forms and the clerks receiving them. Mr. Glover said the in-office procedure was safer and allowed all information to be taken effectively.

Chair Cegavske asked Mr. Conklin if he had any problems with the proposed amendments to A.B. 455 from Mr. Lomax and Mr. Glover. Mr. Conklin said he could not speak for the entire Assembly Committee on Elections, Procedures, Ethics and Constitutional Amendments. Chair Cegavske said she would speak with the co-chairs of that Committee about the proposed amendments, but she wanted to know if staff could print up the proposed amendments for a work session. Mr. Conklin said he understood the clerks' concerns with section 2 of A.B. 455, but he did not want an amendment that would overburden the people receiving the voter registration forms. He asked rhetorically if someone received 1,000 registration forms, divided those among 100 employees and those employees divided their 10 forms amongst walkers, where did accountability end. Ms. Erdoes said an amendment could be written up to address both the clerks' concerns and Mr. Conklin's concerns.

Mr. Conklin said section 34, subsection 5 of A.B. 455 could not be removed as it was better for the citizens. He understood the logistical issues presented by Mr. Lomax and Mr. Glover, but said he felt that something could be written into the bill to alert the late registrants that they would not be able to vote right away during early voting.

Lucille Lusk, Nevada Concerned Citizens, spoke in favor of A.B. 455, with some exceptions. She said she favored moving the primary election to an earlier date, as a later date created problems with school preparation. She said the later primary date also did not give people enough time to become informed about the candidates. Ms. Lusk said she did not oppose moving the filing date for candidates back. She said her primary opposition to the bill was in regard to provisional voting, but the Committee had answered her concerns already. She said section 2, as written, would require the clerks to issue an unlimited number of voter registration forms to someone requesting them. She said it would be wise to amend the language to allow the clerks to reasonably limit the amount of registration forms issued to a single individual or organization at one time. Ms. Erdoes said reasonableness was already built into the law, which would allow the clerks to refuse any request for registration forms they deemed unreasonable. Ms. Lusk said if she were of a nature to do so, she would try to challenge the law if it were written as proposed in A.B. 455.

Ms. Lusk said the request by Mr. Lomax and Mr. Glover for voter registration form-tracking by those people who received large numbers of them would be difficult. She said that would prompt many groups to not participate in distributing registration forms because it would become too much of a burden. Chair Cegavske asked if Ms. Lusk would recommend a number of forms or a maximum. Ms. Lusk said it was not so much a number; it was moving it beyond the general organization and how they distributed the forms. She said once the burden is moved beyond the organizational level, it would become too cumbersome for the individuals in the organization to monitor. She said Mr. Lomax's concerns about requiring an individual who assists another in completing the registration form to print his or her name was a good idea. She said the word "assisting" needed clear definition within the law, so as not to confuse anyone. Ms. Lusk said section 34, subsection 5 of A.B. 455 should remain in statute and not be removed as it would create unnecessary confusion.

Richard L. Siegel, President, American Civil Liberties Union of Nevada, spoke in support for the majority of A.B. 455. Mr. Siegel said the issue of judicial decisions in regard to petitioners should be left in the hands of the judiciary. He said the ACLU had accepted the seven-day decision from the State courts. Mr. Siegel asked Senator Beers if he was serious about automatically qualifying a petition if the petitioners were arrested without just cause by a government agency. Senator Beers said he was serious. Mr. Siegel said he had sympathy for that point of view, but the problem was some groups might try to intentionally

have their petitions blocked by someone in a government office. Senator Beers said a petition would not be approved from just an arrest. Senator Beers explained approval would come only after judicial review of the case because the seven days was already too late in some cases. Mr. Siegel said he understood the problem, but felt the courts should decide the issue.

Mr. Siegel said he hoped provisional balloting would be approved by the Legislature, as 44 of the 50 states had approved provisional balloting. He said provisional balloting was an important step toward greater civil rights for everyone. Mr. Siegel said the ACLU had no position on the primary election date, but voiced concern that moving the date up would require a candidate's information to run back into the previous year, which could cause problems with party affiliation and district residency. He said the ACLU would prefer the primary election date to be later rather than earlier. Senator Titus said she preferred the primary to be in May, when schools were still open, as opposed to June, when people went on vacation. Mr. Siegel said the ACLU did not care whether the primary was in May, June or September, as long as no additional burdens of residency or party change were created in moving the primary date.

Mr. Siegel said the issue of voter registration forms and tracking them could be solved if the district attorneys or the city attorneys understood their jurisdiction in regard to the registration forms. He said the clerks were not in a good position to track the forms, and that responsibility should be left to the district attorneys and the city attorneys. He said the ACLU's final concern with A.B. 455 was with the term "nonresident college student." He said the term should just be nonresident because a college student, per se, has no significant role in elections.

Lynn P. Chapman, Nevada Eagle Forum, said those people who take voter registration forms from the clerk to distribute to the public should not be held responsible for those forms if they are not turned in. She said working at a booth and assisting others was one thing, but one who distributed forms from the home should not be made responsible for them. Chair Cegavske said the concern was with those distributors who blatantly disobeyed the laws and committed voter fraud. Chair Cegavske said the problem with creating a law which acted as a net to catch those blatant lawbreakers was that sometimes those who did the right thing got caught in that same net.

Janine Hansen, Independent American Party, said section 2, subsection 3 of A.B. 455 made it more difficult for people to participate in government and said she felt the provisions were unfair. She asked for section 2, subsection 3 to be removed from the bill. She said section 5 of A.B. 455 was not necessary, and section 10 of Senate Bill (S.B.) 478 was preferable.

SENATE BILL 478: Revises various provisions relating to elections.
(BDR 24-573)

Ms. Hansen said she wanted section 10 of S.B. 478 amended into A.B. 455 instead of the current section 5. She said section 5, subsection 4 of A.B. 455 needed to be changed because seven days was not enough time. She recommended language be examined in S.B. 478 because it was aimed at helping petitioners. Ms. Hansen gave the Committee an e-mail ([Exhibit D](#)) she received concerning the issue of minor political parties filing for candidates on the ballot. She said she could not agree with section 9 of A.B. 455 because it was not fair to the minor political parties. She said changing the filing time for a candidate to run for office from two weeks to one week would prevent many people from running for office.

Ms. Hansen said she opposed the idea in section 10 of A.B. 455 about having to file finance reports because sometimes those issues took years in the courts to be resolved. Chair Cegavske asked Ms. Erdoes if the filing candidate would be excluded from the provision in section 10 of A.B. 455 if the candidate were in litigation over a finance issue. Ms. Erdoes said the person was still subject to section 10, even while they were in litigation, because of the way it was written.

Ms. Hansen said she also opposed the provision in A.B. 455 that a person cannot serve on a petition board if they had an outstanding fine or civil penalty. She said there were some good things in the bill, and she hoped the election process would run smoothly and efficiently.

Chair Cegavske closed the hearing on A.B. 455 and opened the hearing on A.B. 314.

ASSEMBLY BILL 314 (1st Reprint): Makes various changes to provisions governing eligibility for election and appointment to certain public positions and offices. (BDR 24-436)

Assemblyman Bob McCleary, Assembly District No. 11, asked the Committee to amend the instances in A.B. 314 where there was a 12-month residency requirement to 6 months, which would mirror a similar bill from the Senate and pass it. Chair Cegavske said there were two issues in the bill. She said the first issue concerned those appointed by the Governor, and the second issue concerned those who ran for office. She asked Mr. McCleary how he felt about both issues. Mr. McCleary said he was under the impression that appointees and those running for office had to abide by the same law, and that is the only reason the language for appointees appeared in A.B. 314. Ms. Erdoes said provisions for appointees and candidates for office were two different issues. Mr. McCleary apologized for assuming the two issues were the same and asked the Committee to amend the bill further to make the six-month residency requirement apply to those appointed by the Governor as well. He said people should not be allowed to move around just to shop for a district.

Chair Cegavske closed the hearing on A.B. 314 and opened the hearing on A.B. 89.

ASSEMBLY BILL 89 (1st Reprint): Authorizes county clerks and city clerks to designate additional facilities at which electors may register to vote. (BDR 24-508)

Kimberly McDonald, City of North Las Vegas, said A.B. 89 would allow greater voter registration as it would open more facilities where people would be able to register. She said the bill passed out of the Assembly unanimously.

Karen L. Storms, City Clerk, City of North Las Vegas, said many people did not come to city hall to register to vote. She said a great number of people attended other municipal facilities such as libraries or swimming pools; A.B. 89, which allowed voter registration at other facilities, would allow the city clerks to have a greater number of people register to vote. Chair Cegavske asked if the city clerks would have enough equipment if registration was held at other facilities. Ms. Storms said the city clerks would use the county clerks' equipment when going to other municipal facilities.

SENATOR WIENER MOVED TO DO PASS A.B. 89.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS BEERS AND TITUS WERE ABSENT FOR THE VOTE.)

Chair Cegavske opened the hearing on A.B. 443.

ASSEMBLY BILL 443 (1st Reprint): Amends certain city charters to revise timing of municipal elections. (BDR S-512)

David J. Fraser, Nevada League of Cities, gave the Committee a proposed amendment to A.B. 443 (Exhibit E). He said the bill would change the general elections of the City of Elko, the City of Carlin and the City of Wells to coincide with the general elections of Elko County. He said the bill would shorten the terms of those seeking office, as the bill would try to get the city elections to match those of the county. He said those candidates would go at different times, but the elections would coincide as soon as possible without disenfranchising current candidates. Chair Cegavske said Clark County was trying to implement a similar plan. Ms. Erdoes said she agreed the methods outlined in A.B. 443 eventually got to the same place, and they were constitutional in nature. Mr. Fraser said one of the proposed amendments on page 4 of Exhibit E would change the word December to the word January, as that was the typical month for one to take office. He said page 6 of Exhibit E proposed another change to make the language read "January." He said the final change was on page 8 of Exhibit E to recommend the bill read "June 2005" instead of "2001." Chair Cegavske asked if the proposed amendment was shown to the Assembly. Mr. Fraser said no, but he would give them a copy.

Chair Cegavske closed the hearing on A.B. 443 and opened the hearing on A.B. 136.

ASSEMBLY BILL 136 (1st Reprint): Requires Secretary of State to post on his Internet website certain information related to proposed constitution, constitutional amendment or statewide measure in lieu of causing publication of such information. (BDR 24-418)

Chair Cegavske said the Legal Division of the Legislative Counsel Bureau informed her that the provision in A.B. 136 removing the requirement for print in

the newspaper was unconstitutional. She said this would require a constitutional amendment in order to pass the bill. Chair Cegavske asked if the Secretary of State was already posting relevant information concerning statewide measures or constitutional amendments on the Web site. Ms. Erdoes said the text was not present on the Web site, and that was what A.B. 136 addressed. Chair Cegavske asked if the provision to not print the information in the newspaper was the only unconstitutional issue. Ms. Erdoes said that was correct; it only pertained to the initiative portion. Mr. Stewart said A.B. 136 was introduced in the Assembly by the clerks, and the initiative portion was added later.

Chair Cegavske closed the hearing on A.B. 136 and opened the hearing on Assembly Joint Resolution (A.J.R.) 10.

ASSEMBLY JOINT RESOLUTION 10: Proposes to amend Nevada Constitution to revise residency requirement for purpose of being eligible to vote in elections. (BDR C-1379)

Assemblyman Harry Mortenson, Assembly District No. 42, said A.J.R. 10 would align the State with the decision from the U.S. Supreme Court in regard to voting. Ms. Erdoes said she agreed with Mr. Mortenson. Chair Cegavske said if the measure passed in the 2005 and 2007 Legislative Sessions, it would then be put to a general vote for the people of Nevada in 2008. Mr. Mortenson said that was correct. He said the *Constitution of the State of Nevada* was a wonderful document, but an inaccuracy like that addressed in A.J.R. 10 should be removed.

Chair Cegavske closed the hearing on A.J.R. 10.

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Chair Cegavske adjourned the meeting of the Senate Committee on Legislative Operations and Elections at 4:06 p.m.

RESPECTFULLY SUBMITTED:

Jonathan Sherwood,
Committee Secretary

APPROVED BY:

Senator Barbara Cegavske, Chair

DATE: _____