

MINUTES OF THE
LEGISLATIVE COMMISSION
NEVADA LEGISLATIVE COUNSEL BUREAU (LCB)
June 3, 2011

The first meeting in 2011 of the Legislative Commission, created pursuant to *Nevada Revised Statutes* (NRS) 218E.150, was held on Friday, June 3, 2011. The meeting was called to order by Vice Chair Marcus Conklin at 7:50 a.m. in Room 4100 of the Legislative Building, 401 S. Carson Street, Carson City, Nevada. A simultaneous videoconference was broadcast to Room 4401 of the Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada. Exhibit A is the agenda, Exhibit B is the guest list, and other substantive exhibits are available and on file in the Director's Office of the Legislative Counsel Bureau. Certain items may have been taken out of order but were placed in agenda order in the minutes for purposes of continuity.

COMMISSION MEMBERS PRESENT:

Assemblyman Marcus L. Conklin, Vice Chair
Assemblyman Ira Hansen
Assemblywoman Marilyn Kirkpatrick
Assemblyman Richard McArthur
Assemblywoman Debbie Smith
Assemblyman Lynn D. Stewart
Senator Mo Denis
Senator Elizabeth Halseth
Senator Steven A. Horsford
Senator Sheila Leslie
Senator Michael Roberson
Senator James A. Settelmeyer

OTHER LEGISLATORS IN ATTENDANCE:

Assemblyman John Ocegüera, Clark County, Assembly District No. 16

LEGISLATIVE COUNSEL BUREAU STAFF:

Lorne J. Malkiewich, Director
Brenda J. Erdoes, Legislative Counsel
Risa B. Lang, Chief Deputy Legislative Counsel
Mark Krmpotic, Senate Fiscal Analyst

Rick Combs, Assembly Fiscal Analyst
Donald O. Williams, Research Director
Connie Davis, Legislative Commission Secretary
Cynthia Wyett, Committee Assistant

Vice Chair Conklin opened the meeting of the Legislative Commission and turned the microphone over to Lorne Malkiewich, Director of the Legislative Counsel Bureau, who presented opening remarks.

Lorne Malkiewich, Director, Legislative Counsel Bureau, advised that the Legislative Commission was the policy arm of the Legislature during the interim between sessions. Its members, he said, provided oversight of the Legislative Counsel Bureau, interim studies, and statutory committees and reviewed and approved administrative regulations. Mr. Malkiewich advised that no permanent regulation of a state agency, subject to the Administrative Procedure Act, could take effect unless approved by the Legislative Commission or its Subcommittee to Review Regulations.

Mr. Malkiewich reported that the Legislature recently adopted Assembly Resolution 9 and Senate Resolution 5 that appointed new members from the Assembly and the Senate to the Legislative Commission. The June 3, 2011, meeting, he said, was the first meeting that included the newly appointed members, and Item III of the agenda called for the election of the Chair and Vice Chair of the Commission.

*I. APPROVAL OF MINUTES OF THE DECEMBER 16, 2010, MEETING –
Assemblyman Marcus Conklin, Vice Chair

Vice Chair Conklin entertained a motion for approval of the December 16, 2010, meeting minutes.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF THE
DECEMBER 16, 2010, MEETING MINUTES.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

II. LEGISLATIVE COMMISSION POLICY:

- *A. Approval of Transfer of Appropriated Sums Among the Legislative Commission, the Various Divisions of the Legislative Counsel Bureau, and Interim Legislative Operations – Lorne Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, reported that the General Appropriations Act included a provision each session to allow the Legislative Counsel Bureau, the Legislative Commission, and the Interim Legislature to transfer money between budget accounts or from year to year if, for example, one of the budgets experienced a shortfall. Although shortfall problems were not expected, Mr. Malkiewich explained that he generally sought approval from the Legislative Commission to allow the transfer of funds, and the request was simply a precautionary measure to avoid calling an emergency meeting of the Legislative Commission.

SENATOR SETTELMAYER MOVED APPROVAL TO TRANSFER APPROPRIATED SUMS AMONG THE LEGISLATIVE COMMISSION, THE VARIOUS DIVISIONS OF THE LEGISLATIVE COUNSEL BUREAU, AND INTERIM LEGISLATIVE OPERATIONS.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- *B. Amendments to Rules and Policies of the Legislative Counsel Bureau, Travel Policy for Legislators Attending Meetings of National Organizations – Lorne Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, discussed the substantial reductions to the Legislature's budget, approved during the 2009 Session, including the policy that legislators were no longer entitled to be reimbursed for out-of-state travel. Similarly, he said the budget for the 2011-2013 interim did not include reimbursement for legislators' out-of-state travel, and, therefore the Rules and Policies of the Legislative Counsel Bureau were being amended to suspend reimbursement for legislators' out-of-state travel beginning on July 2, 2011, and ending on June 30, 2013.

SENATOR HORSFORD MOVED APPROVAL FOR THE NO REIMBURSEMENT POLICY FOR LEGISLATORS' OUT-OF-STATE TRAVEL FOR THE 2011-2013 INTERIM.

SENATOR HALSETH SECONDED THE MOTION.

Assemblywoman Kirkpatrick suggested entirely eliminating the reimbursement for out-of-state travel and indicated a future legislature could replace the reimbursement policy if it so desired.

Vice Chair Conklin recommended placing Assemblywoman Kirkpatrick's recommendation to eliminate the out-of-state travel reimbursement on a future Legislative Commission agenda for consideration.

THE MOTION CARRIED UNANIMOUSLY.

- *C. Amendments to Rules and Policies of the Legislative Counsel Bureau Concerning Employees of the Legislative Counsel Bureau –
Lorne Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, distributed a resolution entitled, "Amendments to Rules and Policies of the Legislative Counsel Bureau Concerning Employees of the Legislative Counsel Bureau" (Exhibit C). Mr. Malkiewich explained that the document was not included in the packet because the bills related to state employees leave and accrual time had not yet been passed.

Mr. Malkiewich pointed out that the resolution provided that for the period beginning July 2, 2011, and ending on June 30, 2013, employees of the Legislative Counsel Bureau were not entitled to longevity payment. Additionally, he explained that the Legislative Counsel Bureau's policy for annual and sick leave paralleled that of the Executive Branch. Although he was uncertain about any changes to the current policy, Mr. Malkiewich advised that he included a resolve clause in the amendment to the rules that accrual of sick leave and annual leave for Legislative Counsel employees must be adjusted to conform to the requirements of any legislation governing state employees that would be enacted by the 2011 Legislature.

Mr. Malkiewich discussed Rule 45.5, the existing furlough policy, which required each employee of the Legislative Counsel Bureau to take one furlough day per month and the current budget that, as closed, required state employees to take 48 hours of furlough per year. Again paralleling the Executive Branch, Mr. Malkiewich advised that the amendment to Rule 45.5 provided that each employee of the Legislative Counsel Bureau would take 48 hours of unpaid furlough leave each fiscal year.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL THAT EMPLOYEES OF THE LEGISLATIVE COUNSEL BUREAU WERE NO LONGER ENTITLED TO RECEIVE LONGEVITY PAYMENT AND WOULD BE REQUIRED TO TAKE 48 HOURS OF UNPAID FURLOUGH LEAVE EACH FISCAL YEAR AND THAT ACCRUAL OF SICK LEAVE AND ANNUAL LEAVE MUST BE ADJUSTED TO CONFORM TO THE REQUIREMENTS OF ANY LEGISLATION GOVERNING STATE EMPLOYEES ENACTED BY THE 2011 LEGISLATURE.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- *D. Appointment of Members of Legislative Commission's Subcommittee to Review Regulations (NRS 233B.067) – Lorne Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, advised that one of the Commission's duties was to appoint a Subcommittee to Review Regulations. Mr. Malkiewich explained that permanent regulations could only be proposed during the interim but could be adopted at any time. He mentioned that a meeting of the Subcommittee to Review Regulations was held on May 5, 2011, to approve regulations.

Mr. Malkiewich said that, as a rule, the Legislative Commission's first meeting after the session ended occurred in August or September. He pointed out that appointing a Subcommittee to Review Regulations could not be put off until August or September because the Subcommittee might need to meet prior to that time. Mr. Malkiewich advised that under the provisions of Nevada Revised Statutes (NRS) 233B.067, subsection 6, the Legislative Commission would, as soon as practicable after each regular legislative session, appoint a Subcommittee to Review Regulations consisting of at least three members of the Commission, which, by past practice, included designated alternates.

Mr. Malkiewich advised that A.B. 575, an act that made various changes related to the Legislature, clarified in section 19, subsection 6 that the Legislative Commission could appoint *regular or alternate* members of the Commission to the Subcommittee to Review Regulations. A list of possible alternates and members of the Commission eligible to serve on the Subcommittee to Review Regulations was included in the members' packets.

Vice Chair Conklin advised that the Senate and Assembly Republican and Democratic caucuses recommended the following list of legislators for appointment as regular members of the Subcommittee to Review Regulations:

Senator Denis, Chair
Senator Parks
Senator Roberson
Assemblywoman Kirkpatrick
Assemblywoman Benitez-Thompson
Assemblyman Stewart

Additionally, the Senate and Assembly Republican and Democratic caucuses recommended the following legislative members to serve as alternates to the Subcommittee to Review Regulations:

Senator Lee
Senator Settelmeyer
Assemblywoman Smith
Assemblyman McArthur

ASSEMBLYWOMAN SMITH MOVED APPROVAL TO APPOINT SENATOR DENIS AS CHAIR OF THE SUBCOMMITTEE TO REVIEW REGULATIONS AND SENATORS PARKS AND ROBERSON, ASSEMBLYWOMEN KIRKPATRICK AND BENITEZ-THOMPSON, AND ASSEMBLYMAN STEWART AS MEMBERS AND SENATORS LEE AND SETTELMAYER AND ASSEMBLYWOMAN SMITH AND ASSEMBLYMAN MCARTHUR TO SERVE AS ALTERNATES.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- *E. Appointment of Members to Advisory Board on Maternal and Child Health (NRS 442.133) – Lorne Malkiewich, Director

Lorne Malkiewich, Director, Legislative Counsel Bureau, advised that the Legislative Commission appointed one member of the Senate and one member of the Assembly to the Advisory Board on Maternal and Child Health. At the time former Senator Carlton was elected to the Assembly, she was one of the two members of the Advisory Board on Maternal and Child Health. At its December 16, 2010, meeting, the Legislative Commission reappointed

Assemblywoman Pierce to the Advisory Board. Assemblywoman Carlton and Assemblywoman Pierce agreed that if the Commission was willing to do so, Assemblywoman Carlton would replace Assemblywoman Pierce on the Board.

SENATOR HORSFORD MOVED APPROVAL FOR THE APPOINTMENT OF ASSEMBLYWOMAN CARLTON TO REPLACE ASSEMBLYWOMAN PIERCE ON THE ADVISORY BOARD ON MATERNAL AND CHILD HEALTH.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Vice Chair Conklin turned the microphone over to Assemblyman Oceguela, past Chair of the Legislative Commission, who asked to address the Commission.

Assemblyman Oceguela began his remarks by saying that serving as the Chair and a member of the Legislative Commission, over the years, had been an honor and a pleasure. Recalling the many duties of the Commission, Assemblyman Oceguela said the review and implementation of state agency regulations was one of the Commission's most important functions. Another important function, he spoke of, was the Commission's approval of legal actions and whether to proceed with or defend a lawsuit. Assemblyman Oceguela advised that all of the business of the Legislature, during the interim, from personnel issues to the operation of the Legislative Counsel Bureau building were all important matters that would be addressed by the Commission.

Assemblyman Oceguela again expressed his pleasure for the honor of serving as Chair of the Legislative Commission and advised that he would be "watching from a distance."

ASSEMBLYWOMAN KIRKPATRICK MOVED, ON BEHALF OF THE MEMBERS OF THE LEGISLATIVE COMMISSION, TO THANK ASSEMBLYMAN OCEGUERA FOR HIS SERVICE AS CHAIR.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

*III. ELECTION OF CHAIR AND VICE CHAIR OF THE LEGISLATIVE COMMISSION
– Assemblyman Marcus Conklin, Vice Chair

Vice Chair Conklin explained that each interim the Chairs of the Legislative Commission and the Interim Finance Committee rotated the duties of the Chair by house. During the past interim, for example, Assemblyman Ocegüera chaired the Legislative Commission and Senator Horsford chaired the Interim Finance Committee. During the next interim, a member of the Assembly would chair the Interim Finance Committee and a member of the Senate would chair the Legislative Commission. Vice Chair Conklin advised that the chairmanship roles for the Legislative Commission and the Interim Finance Committee traditionally had been held by members in the majority party, and the chair and vice chair traditionally were appointed from the same house.

SENATOR SETTELMAYER MOVED APPROVAL FOR THE
APPOINTMENT OF SENATOR HORSFORD AS CHAIR OF THE
LEGISLATIVE COMMISSION.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Vice Chair Conklin indicated he would entertain a motion for the nomination of the Vice Chair.

SENATOR HORSFORD MOVED APPROVAL FOR THE
APPOINTMENT OF SENATOR LESLIE AS VICE CHAIR.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Vice Chair Conklin expressed his congratulations to both Senator Horsford and Senator Leslie and passed the gavel to Senator Horsford.

Senator Horsford thanked Assemblyman Conklin, Assemblyman Ocegüera, and the members of the Legislative Commission for the opportunity to serve as Chair of the Legislative Commission. Senator Horsford echoed the remarks of past Chair Ocegüera concerning the Commission's important work, which he said would be continued, as well as directing and assisting the Legislative Counsel Bureau staff in preparation for the work of the 2013 Legislature.

Proceeding with the agenda, Chair Horsford turned the microphone over to Mr. Malkiewich concerning the informational items.

IV. INFORMATIONAL ITEMS:

Lorne Malkiewich, Director Legislative Counsel Bureau, advised, for the benefit of the new members, a number of *Nevada Revised Statutes* required reports to the Legislative Commission, which were generally included in the packet as informational items.

Mr. Malkiewich explained that the Commission, as a rule, did not take testimony on the reports. He said, however, that when the Legislative Commission packets were mailed, members were given the opportunity to request testimony if they so desired. Mr. Malkiewich reported that he had been advised public comment would be taken on the "Summary Report from the Office of the Attorney General Concerning the Advisory Committee to Study State and Federal Laws on Sex Offender Registration." He said, however, no action was required by the Commission on any of the reports.

There were no questions or comments from the Commission members concerning the informational items.

A. Legislative Committee Reports

B. Miscellaneous Reports or Correspondence from State Agencies and Others:

1. Department of Business and Industry, and Department of Health and Human Services, Division of Welfare and Supportive Services – Amended Nevada Fund for Energy Assistance and Conservation State Plan – Fiscal Year 2011.
2. Department of Business and Industry, and Department of Health and Human Services, Division of Welfare and Supportive Services – Report Concerning the Annual Evaluation of Programs of Energy Assistance Pursuant to NRS 702.280(2)(C) – Complete Report on File in the Director's Office, Legislative Counsel Bureau.
3. Nevada State Board of Medical Examiners' Biennial Statistical Report.

4. Nevada State Board of Medical Examiners' Assessment of Board Practices – Report of the Review Panel – November 9, 2010.
5. Nevada State Board of Medical Examiners – Audit Report July 1, 2009, through December 31, 2009, Pursuant to NRS 218.825.
6. Nevada State Board of Nursing – Annual Report 2009 – 2010.
7. Summary Report from the Office of the Attorney General Concerning the Advisory Committee to Study State and Federal Laws on Sex Offender Registration – Assembly Bill (A.B.) No. 85, 75th Session, (2009) – Additional Attachments to Assembly Bill 85 Report – Report on File in the Director's Office, Legislative Counsel Bureau.

V. PUBLIC COMMENT

In response to Senator Horsford's request for public comment, Laurie Johnson, a member of the public residing in Las Vegas, provided the following comments in response to Item 7, the "Summary Report from the Office of the Attorney General Concerning the Advisory Committee to Study State and Federal Laws on Sex Offender Registration."

Ms. Johnson appeared before the Commission as a citizen of Nevada, as a previous victim of child sexual abuse, and as a mother of a juvenile sexual offender serving a sentence as an adult sexual offender.

With respect to the "Summary Report from the Office of the Attorney General Concerning the Advisory Committee to Study State and Federal Laws on Sex Offender Registration," Ms. Johnson submitted, for the record, a recently published 54-page policy paper titled, "A Reasoned Approach, Reshaping Sex Offender Policy to Prevent Child Sexual Abuse" (Exhibit D) from the Association for the Treatment of Sexual Abusers, whose website could be accessed at ATSA.com.

Ms. Johnson asked that the members of the Commission familiarize themselves with the policy paper whose participants included the victim advocacy group, Stop It Now, and Dr. Jill Levenson, a nationally recognized treatment specialist for sexual offenders. Ms. Johnson reported that Dr. Levenson had written the 2008 Nevada Affidavit for the ACLU on Assembly Bill No. 579 and mentioned that Assembly Bill No. 579 of the 74th Session (2007) and Senate Bill No. 471 of the

74th Session (2007) were bills related to the registration of and community notification of sex offenders.

Ms. Johnson indicated she had testified several times during the 2011 Session about policy regarding sex offenders and child sexual abuse. "A Reasoned Approach," she said offered insight into current research about sexual offenders, analysis of policy trends related to sex offenders, information about innovations in legislative and community responses to sexual abusers, and recommendations for policy changes to facilitate the prevention of child sexual abuse.

Ms. Johnson advised that the authors of "A Reasoned Approach," Alisa Klein, and Joan Tabachnick, were aware that she had gone on record concerning their policy paper. Ms. Johnson reported that Ms. Klein advised that she would make herself available to provide presentations on the topics covered in the report. Ms. Johnson also advised that she had provided her personal contact information to the Legislative Commission secretary, who upon request would make it available to members of the Commission.

Senator Horsford thanked Ms. Johnson for her testimony and for the material that had been provided to the members of the Commission.

There being no additional public comment and no additional business before the Commission, Senator Horsford adjourned the hearing at 8:18 a.m.

Respectfully submitted,

Connie Davis, Secretary
Legislative Commission

Assemblyman Marcus Conklin, Outgoing Vice Chair
Legislative Commission

| EXHIBITS | | |
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| Nevada Legislative Commission | | |
| Date – June 3, 2011 – Time 7:50 a.m. | | |
| Exhibit | Witness/Agency | Description |
| A | | Agenda |
| B | | Guest List |
| C | Lorne Malkiewich, Director, Legislative Counsel Bureau | Amendments to <u>Rules and Policies of the Legislative Counsel Bureau</u> Concerning Employees of the Legislative Counsel Bureau |
| D | Laurie Johnson | "A Reasoned Approach, Reshaping Sex Offender Policy to Prevent Child Sexual Abuse" |