

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Eighth Session
March 19, 2015**

The Committee on Legislative Operations and Elections was called to order by Chair Lynn D. Stewart at 4:04 p.m. on Thursday, March 19, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Lynn D. Stewart, Chair
Assemblywoman Shelly M. Shelton, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Michele Fiore
Assemblyman John Moore
Assemblyman Harvey J. Munford
Assemblyman James Ohrenschall
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Carol M. Stonefield, Committee Policy Analyst
Kevin Powers, Committee Counsel
Patricia Hartman, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Daniel Stewart, Policy Analyst, Assembly Leadership
Bonnie McDaniel, Private Citizen, Las Vegas, Nevada
Doug Goodman, representing Nevada Election Modernization and Reform Act,
Greg Gardella, Private Citizen, Reno, Nevada
David Hoff, Private Citizen, Henderson, Nevada
Janine Hansen, Treasurer, Nevada Families Association
John Wagner, representing Independent American Party

Chair Stewart:

[Roll was taken.] Today we are introducing Bill Draft Request (BDR) 24-1081 concerning elections. This BDR proposes to require the cities, including charter cities, to hold municipal elections on the statewide election cycle. The BDR also provides for a transition in the new election cycle for those currently holding or seeking elective office. In other words, this puts the city elections in line with the state elections. Is there a motion?

BDR 24-1081—Revises provisions governing the dates for certain elections. (Later introduced as [Assembly Bill 416](#).)

ASSEMBLYMAN OHRENSCHALL MOVED FOR COMMITTEE INTRODUCTION OF BDR 24-1081.

ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Stewart:

We are now going to do a follow-up work session on [Assembly Bill 94](#) and will turn the time over to Ms. Stonefield.

[Assembly Bill 94](#): Authorizes a registered voter to elect to receive a sample ballot by electronic mail. (BDR 24-518)

Carol M. Stonefield, Committee Policy Analyst:

There is a new mock-up in your work session binder. We will take up Assembly Bill 94 where we left off on Tuesday. This bill was heard in this Committee on February 24, 2015, and was presented by Assemblyman Ira Hansen. It proposes to permit registered voters to receive their sample ballot by email. There were amendments offered by the election officials in Clark County, Carson City, and Washoe County. Kevin Powers, our Committee Counsel, will discuss the proposals in the mock-up [work session document ([Exhibit C](#))].

Kevin Powers, Committee Counsel:

We will begin on page 4 of the mock-up, subsection 4, line 33. This is the heart of the bill, and it addresses each of the concerns raised by the county clerks in Carson City and Clark and Washoe Counties.

The first sentence of the revised provisions provides that a county clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. This was requested by the Carson City clerk's office to make it discretionary, and it is their decision to determine whether to develop the system.

The next provision adds that such a system must be approved by the Office of the Secretary of State and may include, without limitation, electronic mail or electronic access through an Internet website. This will address the concerns of Washoe County since the system would not specifically be set up to use electronic mail but would allow other opportunities to use electronic access through Internet websites.

The last provision requested by Clark County is if registered voters are required to provide an electronic mail address in order to receive this information electronically, the voter must be informed that their electronic mail address will be disclosed to the public unless they request it be withheld pursuant to *Nevada Revised Statutes* (NRS) 293.558. That was the provision that Clark County had asked be included in the amendment.

The rest of the provisions in the bill conform the remainder of the bill to the main provisions requested by Carson City and Clark and Washoe Counties and that is the substance of the proposed amendment.

Chair Stewart:

Is there anyone from the election departments who would like to make a comment? [There was no one.] Let us make a motion first, then we will take comments from the Committee.

ASSEMBLYMAN ELLIOT T. ANDERSON MOVED TO AMEND AND
DO PASS ASSEMBLY BILL 94.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Assemblyman Thompson:

On page 4, subsection 4, what does it mean when we say electronic access through an Internet website? I would like to have a clear interpretation of that phrase. If this bill is passed by the Governor, is it true that it is up to the Secretary of State's Office for approval?

Kevin Powers:

If this bill becomes a law and a county clerk decides to implement an electronic system of delivering the sample ballots, that system could not be implemented in that county without the approval of the Secretary of State's Office. One of the reasons for that approval is to have uniformity across the system adopted by the 17 counties. The goal is not to have 17 completely different systems throughout Nevada but to have the Secretary of State's Office create some uniformity among the systems by having overall review and approval. This only slightly differentiates from the original bill as it was introduced because, as you can see in the existing language later on in the subsection, it did provide that the distribution had to be according to the procedures and requirements set forth by the regulations adopted by the Secretary of State's Office.

Regarding your first question, because this is discretionary, it leaves it up to the county clerks to develop systems whereby electronic access is provided through Internet websites which would also have to be approved by the Secretary of State's Office. All of that would go through the regulation-making process and would go before the Legislative Commission as well. As drafted, this amendment gives them the flexibility to come up with a system they think is appropriate and workable.

Assemblyman Thompson:

It could be accessed either through a hyperlink or they could direct people to their specific web page, correct?

Kevin Powers:

That is correct.

Assemblyman Ohrenschall:

My question concerns the amended language in section 2, subsection 4(b). If the voter provides his email address and wants to submit a written request to the county clerk to have that electronic mail address withheld from the public,

I referenced NRS 293.558 and it looks like the same statute for someone who wants to have a confidential status with the county clerk. It seems there is a procedure for not wanting your email address given out already stated in statute. Will the process by which someone elects to receive the sample ballot through email or the website be left up to regulation by the Secretary of State's Office? Is that already in the mock-up, or will it be up to each county to make that decision? How will someone elect not to get the old-fashioned paper ballot? Will that process be left up to regulation?

Kevin Powers:

If the system is developed, the procedure will exist within the system for registered voters to choose to receive the sample ballot electronically and they would have to affirmatively request to receive it electronically. If at that time they had to disclose their email addresses to receive it, they would then have to elect to make sure that their email address remained confidential. At the time they elected to receive it, they would have to take the extra step by requesting that their electronic mail address be kept confidential.

Assemblyman Trowbridge:

Throughout this document the county clerk is mentioned, and in some areas reference is made to the city clerk. I thought we had also talked about including the registrar of voters. Would the proper term to use throughout the amendment be the chief election officer?

Kevin Powers:

The sections being amended in NRS Chapter 293 only need to refer to county clerk because the term county clerk is defined to mean both the county clerk and the registrar of voters in counties that have a registrar of voters. The term county clerk in NRS Chapter 293 covers both. In NRS Chapter 293C, the term city clerk is used because that chapter only deals with city clerk. We believe the terms are being used consistently as defined in the various chapters, and we think we have it covered.

Chair Stewart:

If there are no more questions, we will take a vote.

THE MOTION PASSED UNANIMOUSLY.

We will give the floor statement to Assemblyman Hansen. We will now open the hearing on Assembly Bill 252. I will be a presenter of the bill. [Assemblywoman Shelton assumed the Chair.]

Assembly Bill 252: Revises provisions relating to elections. (BDR 17-737)

Vice Chair Shelton:

Please proceed, Assemblyman Stewart, when you are ready.

Assemblyman Lynn Stewart, Assembly District No. 22:

I am here along with Daniel Stewart to make a joint presentation of Assembly Bill 252, which calls for an advisory redistricting commission, technically the Legislative Advisory Commission on Reapportionment and Redistricting. As you know, every ten years we have a census taken. When a census is taken, redistricting must occur.

The *Nevada Constitution* says that the Legislature must perform the redistricting. Having been in the Legislature for some time, I remember the last census in 2010 and the responsibility for redistricting was given to the 2011 Session of the Legislature. This was quite a partisan and contentious situation. The Legislature held hearings throughout the state, and I can remember going to ones in Fallon, Reno, and Las Vegas. These were conducted by the Assembly Committee on Legislative Operations and Elections. Plans were developed and proposed by both Democrats and Republicans. The Republican plan was rejected by the Democratically-controlled Legislature. The Democratic plan was rejected by the Republican Governor. Therefore, neither plan was accepted. The courts got involved and, fortunately, we had a very wise district judge here in Carson City by the name of James T. Russell. He accepted the challenge to assign three masters who drew up a plan for the districts for state senators, state assemblymen, university regents and U.S. representatives. Researching back to 2001 for the previous census which took place in 2000, we found the same type of confusion and conflict. In fact, it was not settled until the special session was held in June 2001. The purpose of this bill is to put into practice a redistricting process and make it as nonpartisan as possible.

I will now turn the time over to Daniel Stewart, who will explain the details of the bill.

Daniel Stewart, Policy Analyst, Assembly Leadership:

I currently work in the Assembly Leadership Office as a policy analyst and have been working with Assemblyman Stewart with some of this Committee's proposals.

Assembly Bill 252 is relatively short, but short bills tend to sometimes be the most deadly because you have to be careful about their details. We are not really changing anything, but we are creating the foundation. In Article 4,

Section 5 of the *Nevada Constitution*, it says it shall be the mandatory duty of the Legislature in the first session after taking the decennial census after 1950 to redistrict going forward. The Legislature did not create a plan in 2011, and currently what exists in the statutes is an appendix and a court order creating the districts.

In consultations with Assemblyman Stewart, we tried to think of ways to get ahead of that issue and came up with the idea of an advisory commission like that used in other states. We have some specifics here that are slightly different. One of the reasons that this plan could help is because 120 days go a lot faster than even I thought it would. The term advisory is very important. Currently before the U.S. Supreme Court is a case involving the State of Arizona in which that state's voters, through an initiative petition, created a redistricting commission that would not only redistrict, but the legislature has no control to change, alter, or approve the plans. They took that duty away from the legislature and put it into the hands of a commission. The U.S. Supreme Court is deciding whether or not that is constitutional since it is the *U.S. Constitution's* requirement that it be the legislators who do the redistricting for the federal offices. This is advisory only and we are ensuring to avoid those issues ahead of time.

This covers the definitions which include an Advisory Commission as mentioned in section 3 and the decennial census, which is the census that will be taken every ten years. We do not draw all the districts. The city councils and county commissions will draw their own districts, but this body will be tasked with specifically legislative, congressional, and regent districts. Section 7 outlines who will be on this Commission. No matter how much you try to avoid them, partisan implications will come into play, and regardless of how much we might think we know, we do not know ahead of time who is going to be in charge. This section allows members of the five-person committee to be selected by the majority and minority leaders of the Senate and Assembly, and the speaker of the Assembly. The fifth person will be appointed by the Chief Justice of the Nevada Supreme Court. Assemblyman Stewart has had conversations with Chief Justice James Hardesty and, at this time, they believe it is within the limits of the *Nevada Constitution* to appoint someone to this Commission. The Commission's selections will be appointed before the end of the 2019 Legislative Session in preparation for the census that will come out in 2020.

Some of the restrictions for members of the Commission are that they cannot currently hold an office nor can they run for any office in a district that they draw for five years after the maps are created. Constitutionally this does not

apply to U.S. congressional districts. We cannot proscribe them from running, so they could still run, but at least in state legislative districts, you cannot run for at least five years if you are a part of that Commission.

Their duties are to conduct hearings and meet as needed to ask questions or demand records. They will be provided with their own staff and legal counsel as appropriated. They will not be paid but will have their per diem expenses covered. That is important because one of the requirements of this bill is that in January following the year of the census, the National Conference of State Legislatures holds a redistricting conference, usually in Washington, D.C., with state legislators and their representatives from across the nation to discuss redistricting. They usually have a summary of any new case law that has developed over the course of the decade. They will have experts from the Brennan Center for Justice and election experts to discuss issues. One of the problems with redistricting, especially in a state that has term limits, is that it is only done once in your legislative career per office. This is not an area where you get a lot of experience, so there is constant training.

The Commission is tasked with meeting as soon as the census data is published. In section 11, they are to consider what is often referred to as traditional redistricting principles. These are items that are objective criteria in trying to establish districts which includes complying with the *U.S. Constitution*, the Voting Rights Act, and ensuring that the districts themselves are equally populated. The only qualification under section 11, subsection 2(b) is that whereas congressional districts have to have absolute equality in population, to legislative "Districts must consist of equal population, as nearly as is practicable." We want districts to be geographically contiguous and compact, recognizing other boundaries, such as counties and states, in trying to preserve communities of interest.

The meat of this statute occurs in sections 12 and 13. By the 30th day of the 2021 Session, the Commission will present three different options for all the districts which are three senate, assembly, congressional, and regional maps. The reason for doing this is because the first maps people see tend to frame the debate at that time and, at that point, everyone is working to change the first map. The Legislature is under no obligation at that time to accept any of them. They can create their own or decide to change certain boundaries, but this will be to provide the Legislature with a head start on these maps. Once the maps are approved, the Commission is disbanded until they are needed.

Assemblyman Elliot T. Anderson:

I remember redistricting a plan and I sent it to the Governor, who vetoed it. I think the Legislature is capable of doing redistricting, but I have constitutional concerns about how this would work. We are putting the court in a position of getting into something that is the Legislature's business and, at a later time, they may have to rule on the validity of maps that are passed by the Legislature. It seems odd to me to have the court proceeding in this manner and developing model maps, then ruling on its constitutionality later with the Voting Rights Act provisions which always seem contentious. If you were in a court proceeding, you would have to be conflicted out if the court had a role in designing these maps, is that correct?

Daniel Stewart:

The court itself will not be involved. The court will be appointing someone that does not have a role in the court, and that third party will be the fifth member of the Commission. The other four members will be appointed by the members of the legislative body. It will be five people independent of the courts and the Legislature.

Assemblyman Elliot T. Anderson:

If you have two blocks that are equal in terms of representation, you would expect that there would be an even partisan balance. It would be the person that is appointed by the court making the deciding call who is also the chair of the Commission. That is a lot of influence over the process. I do not know who they are going to appoint. They are probably not going to appoint someone who is an elected officer of the court or is a judge, but you would expect if someone is going to be appointed by the court, that there would be some measure of loyalty and familiarity of the justices with that person. I think this would be an improper influence on the court later, which could lead to at least the appearance of a conflict if they are reviewing the maps.

Assemblyman Stewart:

We have studied other states and how they have appointed their commissions, and a number of them had the governor appoint the fifth person to the commission. We felt that by using the Chief Justice, he would be as nonpartisan as you could get. If I were to ask ten people on the street who was the Chief Justice of Nevada, I do not think anyone of them would know his name, or if he was a Democrat or Republican.

Assemblyman Thompson:

The Legislature is currently responsible for this, correct? Is there a designated team, or is it inclusive of all 63 members that participate in this process?

Assemblyman Stewart:

In the 2011 Session, there were individuals designated by the leadership of the two parties, and computers were used to draw up the plans. It was up to the leadership of each party to hire experts to do this work with various members of the two parties who got together to develop the plans.

Assemblyman Thompson:

My follow-up is how many people were involved, because we are limited to five with this Commission? I am concerned about perspectives. Also, are there going to be guidelines or principles as to who would be the ideal candidate to serve in these positions, or will it be that I would just want to ask my friend Bill?

Assemblyman Stewart:

We have to leave that decision up to the political acumen of these individuals; the majority leader, the speaker, and the two minority leaders. If Bill is an expert in elections, I am sure Bill would get appointed, and if he is not an expert, I am sure they would choose someone who is an expert. They will try to find the most qualified people. They have the authority to conduct hearings. I personally went to hearings in Reno, Las Vegas, and Fallon. We expect that these individuals would do the same thing. They will get input from citizens and various groups.

Assemblyman Thompson:

When this was done as a legislative body, how many people were on that team?

Assemblyman Stewart:

I do not remember exactly, but probably about five or six.

Assemblyman Thompson:

It was that small and bipartisan?

Assemblyman Stewart:

It depends. We went to these communities and people came up and testified on what they wanted to see happen. The actual number of those who put the maps together was around five or six.

Assemblyman Ohrenschall:

I was here in 2011 and I served on that committee. Former Assemblyman Tick Segerblom was the chair, and I remember we went around the state and held meetings trying to get input from citizens about the redistricting process. I remember two bills that passed both houses and were

sent to the Governor's desk. The Governor vetoed Senate Bill No. 497 of the 76th Session and Assembly Bill No. 566 of the 76th Session. I believe the Legislature did its job in 2011. We delivered two different plans to the Governor, but he did not like them. I looked at his veto message, and he said he did not believe they complied with the Voting Rights Act. No court ever said that, but the Governor said he felt the bills did not comply. Our attorneys felt they did comply because they drafted them and we passed them. There is a dispute over that decision and since the Governor did not call us for a special session to pass it for a third time, it ended up going to the courts, who ultimately resolved it.

My concern is what the bill is attempting to do. Article 4, Section 5 of the *Nevada Constitution* states it shall be the mandatory duty of the Legislature to reapportion and redistrict. I believe that the writers of the *Nevada Constitution* said what they meant and meant what they said. They did not say mandatory duty but it is okay to reach out and get help from a wonderful bipartisan commission. I am not saying that it would not be good and bipartisan or nonpartisan, but is it a proper delegation in terms of our mandatory duty in the words of the *Nevada Constitution*?

Assemblyman Stewart:

I think there are two things here. First, the Legislature is appointing this commission. Secondly, what the commission does is advisory. The Legislature still has the yes or no power whether or not the work of the Commission will be accepted. I think that meets the constitutional challenge.

Assemblyman Ohrenschall:

In the 2011 Session, we rode the circuit going around the state trying to get public input. I do not see in the statute the number of meetings the Commission is required to have. I do not see that they are required to go to the urban and less populous counties, and I am not sure that NRS Chapter 241 applies. Does the Open Meeting Law apply to the Commission? Would they have to meet out in the open? I would assume they would, but I would like that clarified.

Assemblyman Stewart:

If I were on the Legislative Advisory Commission on Reapportionment and Redistricting, I would look back at those records and the testimony that was made during the 2011 Session. I would build on those records, and if the Commission felt they needed more information, they would have additional meetings. I think they already have the maps in place, so they could modify the

map from their last effort and tweak them or do what they felt was best since the population has grown in the last ten years. I would hope they would build on what was already done, and I am sure they would be intelligent enough so I would leave it up to their discretion.

Assemblyman Ohrenschall:

I hope so, but I would feel safer if the Open Meeting Law requirement was in the bill.

Assemblyman Stewart:

I feel the same way about most every bill that we pass.

Assemblyman Elliot T. Anderson:

An unintentional consequence of having the chief justice appoint a commission is that in a post-*Citizens United* world where money is unlimited and your kicks are free, I am afraid both parties have redistricting projects that work. I am worried that this would unintentionally politicize a nonpartisan election for justices. I am also concerned this would lead to a huge outpouring of money into those judicial races. It would be one thing if there was an appointment process and judges were appointed and not elected, but I am afraid of huge amounts of money coming in from national groups creating a politicized judiciary because of the provisions of this bill. I am not sure about the provisions that state you cannot run for office up to five years later. I think that is a restriction on someone's constitutional right to run for office and to petition their government. Would you comment on the First Amendment of the *U.S. Constitution* implications as well as politicizing the races for the U.S. Supreme Court?

Daniel Stewart:

I prefer to appoint a judiciary anyway, but that is not what we are here to discuss. In 2011, there was a Republican Governor and a Democratic-controlled Legislature. If the Governor had the right to appoint the fifth person, the Republicans would have had a three-to-two edge even though they did not control the Legislature. We felt that would give extra power to a party that maybe did not warrant it. We recognized there needed to be a tie-breaker. Maybe there does not need to be a tie-breaker for four; maybe two and two is fine. We were trying to appoint a perceived nonpartisan to be the tie-breaker on the bills that did not owe any allegiance to the parties themselves.

In the 2011 appointment process, there was an unnecessary delay because certain members wanted to run for the U.S. Congress, and we were trying to make sure that their districts covered them. The notion is that if the people working on the maps are less concerned about their own political future, maybe

the maps will be drafted better. That was the purpose for the prohibition on running for state offices. We cannot restrict them from running for the U.S. Congress because of the Supremacy Clause.

Assemblyman Elliot T. Anderson:

I understand that concern. How much can we really do? It is a person's right to run for office. It seems like that would be an infringement on their right to petition the political process. I do not know what business we have saying you cannot run for office after you have been on this Commission. I worry that you are using the chief justice because that is perceived as a nonpartisan race, but if that person is involved in redistricting, it could become a partisan race. We should be cautious about injecting partisanship and money into judicial elections because that can make things ugly and get away from what should be focused on in the law.

Assemblyman Stewart:

When these people are appointed, they know they are giving up that right. These are people who may have been appointed in the past and are in the twilight of their careers. Also, in the system we have now, the chief justice is not elected himself. It is very unlikely the chief justice would be running in that election year because the chief justice is selected on a rotating basis from the members of the court. I think by selecting the chief justice to make the appointment, we are making it as nonpartisan as possible. Most of the people do not know in advance who the chief justice is going to be, even two years away, but members of the court do know. He probably would not even be up for election the year the appointments are made. We looked at this carefully and think this is the fairest way to make it nonpartisan and more fair than having the governor be the fifth wheel.

Assemblyman Elliot T. Anderson:

I believe those groups will be thinking three to six moves ahead, so I do not think, despite your best intentions, that it will stop it from being politicized.

Assemblyman Ohrenschall

In section 10, subsection 2, this Commission has been given subpoena and deposition powers. Why do you foresee the Commission needing those powers? In section 14, the language of the bill mentions the Legislative Commission calling the Advisory Commission as needed, not every decennial census. Do you expect the Legislative Commission to call this group together in mid-census?

Daniel Stewart:

No, I do not think this Commission is meant to do mid-session redistricting. Nevada was somewhat unique in the 2011 redistricting cycle. Courts are constantly involved in redistricting and generally involved in looking at maps that have already been drawn up, indicating whether they are either good or bad, and changing them as needed. In this case they were asked to draw new ones. There are still ongoing legal cases from the 2011 redistricting, and some state's districts are not final because of court orders. For example, if the Legislature draws up a map from the Advisory Commission and someone sues, and the court challenges it and orders them to change the map, the court has the power to bring it back for the Commission to correct it. It is discretionary at that point. The only thing mandatory in this law is the number of years involved in the decennial census.

Assemblyman Ohrenschall:

What about the subpoena deposition powers?

Daniel Stewart:

One of the problems I remember in 2011 is that people were in the process of moving and had not given updated addresses and we were attempting to draw a district making sure that we had the correct addresses. It is just giving them the power to gather the information as necessary if there is someone who is not doing his job—making sure that they had enough power to get information from registrars and elected officials.

Assemblyman Ohrenschall

I do not remember us issuing subpoenas or deposing anyone in 2011.

Assemblyman Thompson:

On page 6, line 25, reference is made to the Advisory Commission making sure that the maps are available for public view and comment. Can you tell us more about that, because section 11 gives a laundry list of things that the Advisory Commission must be made aware of to address. One example is in section 11, subsection 2, paragraph (e), districts must not be drawn with the intent of or result of denying or abridging the equal opportunity of racial or language minorities. In paragraph (f), it states districts must not be drawn with intent or favor of political parties, and so forth. This is quite a process. We need to be definitive about the outreach process. Everyone should be able to give their input so that they are not overlooked.

Daniel Stewart:

In 2011, the Legislative Counsel Bureau (LCB) set up public kiosks in both this building, the Grant Sawyer Building, and throughout the state. It is every citizen's right to propose their own redistricting maps, to have the census data available to them at public kiosks, and to offer their suggestions. At the hearings during the redistricting, they were better prepared than some of the people who were being paid to be there. They provided details about where neighborhoods needed to be located. Despite our efforts to pull away from the partisanship, we know that both the leadership and the parties in the Legislature can be involved in gathering their own data and participating in the hearings themselves. They get everything they can on the record. As soon as the maps are completed on the 30th day, they need to be available in those kiosks and available to the public so they can offer testimony if they so desire. The plan is not to have the maps on the 30th day, but to get the conversation started on the 30th day of the session for committees to discuss the proposals and involve members of the Legislature and their constituents.

Assemblyman Thompson

I want to make sure we take the time and make the investment to ensure that everyone has access to the kiosks. Some people may not have transportation and may only be able to walk in their neighborhood and would not have access to the kiosk locations.

Assemblyman Trowbridge:

I have a question regarding section 11, subsection 2, which provides the criteria on the map preparation. Anyone who has been in an election understands that mailing is becoming a more significant part of campaigns. I suggest that you consider as a friendly amendment that we add ZIP codes as a criteria for determining the districts and mapping.

Daniel Stewart:

That is a helpful suggestion. We are required by law to use census block data, which can be made to coincide with ZIP codes, but if you want to put them in there, I do not see a problem. Legally, we are required to use the individual census blocks in setting up the districts.

Assemblyman Trowbridge:

Census blocks have nothing to do with ZIP codes?

Daniel Stewart:

I do not believe so. If you look at the statute books, there is a list of numbers that look like computer codes which is a compilation of the various census blocks that fit within that district itself. I feel sure that a data specialist could reaggregate that up to the ZIP code level, if needed.

Assemblyman Trowbridge:

If we include ZIP codes as a possible consideration, perhaps at some point in time the computer techies can hit a button and make it work that way because it would make it easier for everyone involved.

Vice Chair Shelton:

Is anyone here in support of A.B. 252?

Bonnie McDaniel, Private Citizen, Las Vegas, Nevada:

I am in support of this bill, but I have a couple of questions. On page 5, lines 24 and 25, referencing state officers and employees, I would actually like to see this not be government employees or state officers, but rather the people on the Advisory Commission to be concerned citizens or nonpartisan people who are not holding an office for either party. That is my only concern because I do not think state employees, state officers, or government employees need to take time away from their own jobs to do another job.

Doug Goodman, representing Nevada Election Modernization and Reform Act:

I have met with some of you in the past concerning an election reform proposal. A version of the proposal is awaiting language in the Senate. I am in support of this bill and am here to propose an amendment. Assemblyman Trowbridge mentioned one of the elements I am planning to present.

When discussing election reform, redistricting is a major issue regarding impacting the competitiveness of elections, voter interest, and voter turnout. Gerrymandering, which is normally used in drawing districts that favor one party or group over another, tends to disrupt this process and contributes to the level of partisanship that we are now seeing at all levels of elected government. By establishing this Advisory Commission, the Legislature can address those issues that make the process of redistricting contentious. Daniel Stewart also mentioned the U.S. Supreme Court case. Most reports are indicating that the U.S. Supreme Court will rule the voter-approved independent commissions unconstitutional. Since the Legislature is appointing this Commission and the Legislature is still maintaining control of designing and approving the districts, I think this bill would not be in conflict with a decision going against independent commissions from the U.S. Supreme Court.

Section 11, subsection 2 provides the framework for how this Commission shall base its recommendations. Complying with the *U.S. Constitution*, the *Nevada Constitution*, and Voting Rights Act means being geographically contiguous and compact. It should not be denying anyone the equal opportunity to vote or elect candidates of their choice to minorities nor favor or disfavor any particular party or incumbent and utilize existing geopolitical boundaries if feasible, which is key. All of these requirements will lead to districts that encourage competition and improve the election process. I believe the process could be made simpler and stronger if section 11, subsection 2(g) was changed. It says, "Where feasible, districts must utilize existing political and geographical boundaries." The words "where feasible" tend to give the perception that the use of those boundaries will be secondary to other methods. I believe that if we delete the words "where feasible," making the use of geopolitical boundaries the primary criteria that is looked at first and allowing other methods only if that method does not allow the other conditions stated in paragraphs (a) through (e) to be met, could be used. Including ZIP codes in that criteria would increase the flexibility of the Commission, especially when it comes to drawing state legislative districts and meeting the requirement that congressional districts must have equal population.

About three years ago, Columbia Law School published a study called *Draw Congress*. This project found that using existing geopolitical boundaries for reapportionment and redistricting was a preferable method in drawing up districts. Assembly Bill 252 is a step to improve Nevada elections, and I believe that the changes I am proposing will make it even better, and I hope the Committee will consider those changes in their deliberation along with approving A.B. 252 [also provided written statement ([Exhibit D](#))].

Assemblyman Elliot T. Anderson:

Recognizing the U.S. Supreme Court is going to do away with the Arizona Independent Redistricting Commission, and because this bill does not take the Legislature out of it, which means it would not take the partisanship out of it, then all this bill would do is inject partisanship into a different branch. I have to disagree with Assemblyman Stewart and Daniel Stewart. It is not going to change partisanship or get to those goals that you are talking about because if we wanted to, we could ignore the map. It is creating a process that does not have to be used and would lead to more money in judicial elections and partisanship. Why should we pass a bill that does not actually change the partisanship here, but would inject partisanship and more money into elections in a different branch of government? It would give the court some of our problems.

Doug Goodman:

I believe you will take partisanship out of the process when you look at using other methods besides what are being used now such as using existing geopolitical boundaries and ZIP codes so that you do not draw the maps looking at benefits to a particular political party. In fact, using the words in the bill, it says the Commission "must," it does not say "should". Those are definitive words. I do think this would take the partisanship out of it.

Vice Chair Shelton:

Is there anyone else in support of this bill? [There was no one.] Is anyone in opposition to A.B. 252?

Greg Gardella, Private Citizen, Reno, Nevada:

I have several concerns about this legislation. One is in reference to language in section 14 regarding the term "including, without limitation." I believe this opens the door to the potential for convening the Advisory Commission in a non-decennial year and mid-decade redistricting. That effort would not be worthwhile for our society and our government. It has been stated that the last effort by some people might have been considered unconstitutional because it was not ultimately completed by the Legislature. I think that may present opportunities or be the driving force for people to push for a redistricting effort prior to the next census. If there is any opportunity for an intensely partisan situation, it would be a mid-decade redistricting effort. If we were to assume that a mid-decade convening of the advisory committee were to occur in an off-year of a legislative session, this bill does not address whether that would be handled by an interim committee or by a special session. If that is the case, if there is a governor who is of a different party than those who are in control of the Legislature, the Legislature may have a conflict with the governor.

Kevin Powers:

Section 14 provides to the Legislative Commission the discretionary power to convene the Advisory Commission if there is a need to develop a reapportionment plan including "without limitation" because of a decision of the court of competent jurisdiction relating to the validity of the districts. That does not necessarily mean that if the Legislative Commission convened the Advisory Commission that the entire Legislature would have to consider reapportionment again. It is unlikely that the Legislative Commission would convene the Advisory Commission if the entire Legislature was not interested in considering reapportionment. Only the Legislature as a whole body can reapportion so, yes, a special session would be called in order to reapportion in a nonsession year. Section 14 does not authorize mid-decade reapportionment any more than it does now. The Legislature now has the discretion to reapportion in any session. This does not change, expand, or limit that power,

but provides the Legislative Commission with the opportunity to convene the Advisory Commission if they thought it was necessary; for example, if the court found that the legislative districts were invalid and redistricting needed to commence again.

Greg Gardella:

By taking out "without limitation," you may avoid some of the difficulties that I suggested. I agree that it is unlikely that these circumstances might occur, but anytime a loophole is written into law, that opportunity exists and someone may exploit it. Assemblyman Thompson has valid concerns regarding the communication of information about this process. It is an important part that has not been considered by the current bill. Legislators are beholden to the voters who are being redistricted as opposed to an Advisory Commission that would not be directly beholden but would be beholden to those who appointed them—this indirectly means the Legislature or the U.S. Supreme Court Chief Justice. I think that having more of a direct line of accountability to the legislators for this process is a worthwhile scenario. One of the intents of this bill is that it would help to avoid contention and partisanship. I do believe it will do that because, ultimately, the process comes back to the Legislature and that is where the partisanship is going to exist. It provides an arms-length distance to the voting populace, which I do not think is appropriate.

Vice Chair Shelton:

Is there anyone who is in opposition of this bill? [There was no one.] Is there anyone neutral on this bill? [There was no one.] Assemblyman Stewart and Daniel Stewart, please come forward with your final statement.

Assemblyman Stewart:

We appreciate your questions and comments. I remind those in opposition that the three masters who made the decision for the last redistricting were not appointed by the Legislature but appointed by a judge of the court. I know this is not a perfect solution, but we think from our observations during the meeting with other states' legislatures, this is the best we can come up with at this time. We would like to try it and if it does not work, the future Legislatures can either modify it or come up with another system.

Daniel Stewart:

Regardless of what we do with this bill, some of the concerns raised about it should be considered, such as community access to the process according to Assemblyman Thompson. We can solve that issue possibly through redistricting. If nothing changes and we are back here in 2021 as a Legislature, I hope we would take those concerns to heart.

Vice Chair Shelton:

I will close the hearing on Assembly Bill 252. [Assemblyman Stewart reassumed the Chair.]

Chair Stewart:

We will now open the hearing on Assembly Joint Resolution 6. Assemblyman Munford will make the presentation.

Assembly Joint Resolution 6: Proposes to amend the Nevada Constitution to allow the Legislature to authorize a lottery for support of the public education of children and the health and welfare of senior citizens. (BDR C-1000)

Assemblyman Harvey J. Munford, Assembly District No. 6:

Assembly Joint Resolution 6 would establish a state lottery for the benefit of programs and services that would benefit the public education of the children of Nevada and the health and welfare of Nevada's senior citizens. I introduce this resolution because my constituents from Assembly District No. 6 have consistently asked me why Nevada does not have a state lottery. I have brought this bill forward on behalf of my constituents to be able to engage in a lottery in Nevada.

In a letter to the editor of the *Las Vegas Review-Journal*, one Nevadan stated that a lot of the residents would like to buy a lottery ticket if the tickets were sold in Nevada. While legislation establishing a lottery has failed in various forms throughout Nevada's history, the establishment of this lottery and the proceeds from it would directly enhance the health, education, and well-being of some of our most valuable citizens without increasing taxes.

The Governor has made it clear that education is a top priority in Nevada. For this reason, this resolution would work toward the Governor's goal by providing increased funding for the education of children in Nevada.

Opponents of the bill will state that the measure will hinder or harm the gaming industry. Almost all of the states that border Nevada, including Arizona and California, operate successful lotteries. It does not seem that this would hurt Nevada's gaming industry or that it has hurt the gaming industries of those states. How could it affect our state if it has not affected the neighboring states? There are no studies to show that the lotteries would be detrimental to the gaming industry. Lotteries and other forms of gaming have coexisted for many years without harming each other. Many Nevada residents go to Arizona and California to buy lottery tickets. If there was a lottery in our state, our residents would not have to buy lottery tickets elsewhere. This is a loss of

revenue for our state that could be helping the education of our younger constituents. The revenue minus the cost of the actual operation of the lottery would go specifically to education and to welfare services for our senior citizens.

This legislation would need to be approved by two consecutive legislative sessions, then be approved by the majority of the voters in our state on a valid referendum. The voters of Nevada are the ones who should ultimately decide whether to institute a state lottery, and this bill would enable our voters to have that voice in deciding if Nevada should have a lottery.

Assemblyman Ohrenschall:

For 17 years Texas has had a lottery, and according to their state lottery website, they have raised \$17 billion for education through the sale of those lottery tickets and not through taxation.

California instituted its lottery in 1984, and according to their state lottery website, they have raised \$28 billion for education by people choosing to purchase tickets, not from taxes or fees.

When the *Nevada Constitution* was amended and voted on in 1990 and prohibited lotteries, the landscape in our nation was different. There was gambling in Nevada and Atlantic City but not anywhere else. Gambling on reservations was not as prevalent as it is now and had not legally spread to other jurisdictions outside of the reservations. But now in 2015, we are seeing successful lotteries operating in jurisdictions where we also have successful casinos and racetracks. They can coexist. I think the argument that it will be detrimental to our gambling industry does not hold water anymore.

In 2009, when former Assemblyman Paul Aizley was a member of this Legislature, he had a similar bill. He was a mathematician and said that in California if you were trying to hit the SuperLotto Plus, you had to play five numbers from 1 to 47 and then an additional Mega number from 1 to 27. He said there are 1,533,939 ways to pick five numbers between 1 and 47. When you multiply that number by 27, you get 41,416,353 different combinations. According to Mr. Aizley, the chance of winning the jackpot was about 1 in 41,500,000, but still millions of people are buying lottery tickets and helping support education in that state.

Chair Stewart:

Are there any other questions for Assemblyman Munford? [There were none.] Those in favor of the bill, please come forward.

David Hoff, Private Citizen, Henderson, Nevada:

I have taught in the Clark County School District for 30 years and am retired from that profession. I am also a 31-year retired ordained priest but that is a misnomer. I am also in favor of A.J.R. 6 proposed by Assemblymen Munford, Ohrenschall, and Wheeler.

I have sent letters to Nevada's 43 Assemblymen and 22 Senators informing them about the lottery in Georgia. Here are the comments I have written.

I am sending you this information about Georgia's lottery in hopes that legislation will be presented and passed so more money will be available for Nevada's educational system. I understand that the Legislature is seeking revenue for education and after seeing today's *Las Vegas Review-Journal* newspaper article with Governor Sandoval and former Governors Richard H. Bryan and Robert List, this is a necessary thing for our state. Having a lottery would provide the funds for education without raising taxes. In Georgia alone, the lottery transferred \$11.4 billion to the state's treasury for education in the last 16 years. The gaming industry can sell tickets from their casinos. If a lottery winner purchased the ticket from a casino, that casino gets a percentage of the money for selling the ticket. That is a win-win situation for everyone. This would also create jobs if stores were made available to purchase just lottery tickets. I can assure you the Lotto Store in Primm does not lack for business because I, along with other members of my church, drive there once a month to pick up a lottery ticket and have breakfast. With gaming, prostitution, marijuana, alcohol, and cigarettes being all of Nevada's sin taxes, what is wrong with adding a lottery? I say nothing. I hope this information will provide the incentive for the Nevada State Legislature to pass legislation creating a lottery that would increase funding for education and aid in the welfare of its senior citizens.

Assemblyman Ohrenschall:

Thank you for giving your blessing to this bill. Do you feel the services offered to the people in need who you try to help in your community are adequate? Do you think they would improve if this was allowed in Nevada?

David Hoff:

Most definitely. The Protestant, Roman Catholic, and Jewish churches, or any denomination reaches out to those who are in need, whether it be providing transportation, food, or money. There is a need in this state for more resources to help those less fortunate than ourselves.

Bonnie McDaniel, Private Citizen, Las Vegas, Nevada:

I also speak on behalf of 26 registered voting members of my family living in Nevada and support having a lottery in Nevada. It would help the education fund, which the business license fees in Senate Bill 252 will not do. Nowhere in S.B. 252 is it mentioned that those funds will go to education.

Some say the poor will just spend their money on lottery tickets, but if you have gone to a casino on the third day of the month, you will notice that many gamble away their welfare and social security checks. I would rather see them buy \$10 in lottery tickets than go to the automated teller machine in the casinos hoping they will hit the jackpot. You have seen people spend hundreds of dollars going to Primm or Arizona to buy tickets. If they could be bought in Nevada, they would not spend that much at one time. Other people say that the stores selling lottery tickets will be mostly in the minority and low-income parts of towns. Not every store has to sell the tickets. Years from now, as this legislation works through two sessions of the Legislature and is subsequently voted on by the people, it can be specified who can and cannot sell the tickets. A specific number of square footage must be present in the stores or selling locations. Since this bill states that the funds will go to the education and/or the elderly for assistance with their health and welfare, it specifies where it will go instead of being just dumped into the General Fund to be spent wherever. I fully support this bill and urge you to vote yes.

Chair Stewart:

Is there anyone else in Las Vegas in favor of this bill?

David Hoff:

There is an article in today's *Las Vegas Review-Journal* noting that the Mega Millions is presently at \$51 million. The Georgia Lottery contributes an average of \$1 million a day to help fund education for Georgia. The money goes to prekindergarten programs, forgivable loans for students who agree to teach in public schools, computer equipment in classrooms, scholarships for teachers seeking advanced degrees, and high school students graduating with a B or greater average. The Nevada Legislature needs to get this ball rolling now in this session because it will take another session for consideration and then onto the voting public. I encourage the members of this current Legislature to pass this bill. I thank Governor Sandoval, Senator Roberson, and Assemblymen Munford and O'Neill for responding to my letter.

Chair Stewart:

Is there anyone else in favor of A.J.R. 6? [There was no one.] Is there anyone in opposition of this bill?

Janine Hansen, Treasurer, Nevada Families Association:

I have significant concerns about instituting a lottery in Nevada. In 2011, the paper, *Journal of Gambling Studies*, conducted a thorough review of the available research on lotteries and concluded that the poor are still the leading patrons of the lottery and even people who are made to feel poor buy lottery tickets. The legalization of gambling has seen a significant increase of young people gambling, particularly in lotteries, and the best predictor of their lottery gambling is their parents' lottery participation.

The International Centre for Youth Gambling Problems and High-Risk Behaviors at McGill University states that one-fifth of parents reported buying lottery tickets for their children. A 2012 study from Yale University found that the receipt of scratch lottery tickets as gifts from parents to children during childhood or adolescence was associated with risky problematic gambling and with gambling-related attitudes, behaviors, and views, suggesting greater gambling acceptability.

In the 2010 publication of the *Journal of Community Psychology*, it was noted that lottery outlets are often clustered in neighborhoods with large numbers of minorities who are at a greater risk for developing gambling addictions.

Although I consider this to be a problem for our young people, indications from the above-mentioned information suggests that up to 88 percent of young men between the ages of 14 and 17 have tried gambling, more than those who have tried smoking cigarettes or drinking alcohol. This indicates that almost 9 out of 10 youths have participated.

We are a state affiliate of Eagle Forum, but this is a personal issue to me because in my own family it has been devastating to deal with someone who has a gambling addiction. It destroys finances, marriages, and relationships with children. The findings on the lottery are that it is more available to young people than other types of gambling because of the restriction of not being allowed to gamble until you reach the age of 21. Findings indicate that the earlier someone starts to gamble, the more likely he or she will become addicted to gambling.

Teens who have gambling addictions are more likely to become addicted to alcohol, drugs, have suicidal thoughts, school problems, violent behaviors, risky sexual behaviors, family problems, peer relations problems, legal and money problems, and depression. One of the problems we face as we increase youth gambling availability through lotteries is that we will end up needing more money due to the increase in social problems requiring additional government programs for intervention. In other states that have lotteries, education ends up

with less money, not more. In Assemblyman Munford's bill, it was noted that it would be to supplement and not supplant other funding. When there is an economic crisis, sometimes those priorities can change. We oppose this bill.

Assemblyman Thompson:

Assembly Joint Resolution 6 does not specify the age of the person who could buy lottery tickets but if Assemblyman Munford, the sponsor of the bill, decided to put in age requirements, would that make it palatable for you, or are you totally opposed to the bill?

Janine Hansen:

The studies show that most of the time a young person cannot buy a lottery ticket. Their parents or others buy lottery tickets for them, and they are more likely to become addicted. Even putting an age requirement on buying lottery tickets does not protect them from the problems lotteries cause, which is different from the casinos because you cannot take a child into a casino. But with a lottery ticket, you can buy it and give it to the child as a gift. That is the problem with this risky behavior being developed.

Assemblyman Thompson:

In your study, is reference made to how much money an average household will spend in buying lottery tickets in each occurrence? If it is a small amount of money, is it that disconcerting?

Janine Hansen:

I cannot answer that specifically, but being involved with people who are addicted to gambling, it takes all their money. If they have access to a bank account, it is gone. They hock their car and get loans at quick-loan facilities. There is no end to the desperation of those who become addicted to gambling. They cover up their tracks of what they have done which leads to borrowing money from others. In the end, they have spent thousands of dollars with nothing left for their family and still owe for the money they have borrowed.

Assemblyman Elliot T. Anderson:

This is a question for our Legal Counsel. Assembly Joint Resolution 6 would put some specific policies into the *Nevada Constitution*. If this passes, we would still have to introduce a measure under a traditional bill to authorize and implement the lottery. On page 3, lines 1 and 2, reference is made to the wording "shall not authorize the operation of any private lottery." Would that unintentionally restrict what the gaming industry can do?

Kevin Powers:

In response to your first question, that is correct. This is an authorization piece for our proposed constitutional amendment. The *Nevada Constitution* presently contains prohibition. This would remove that prohibition and authorize the Legislature by further legislation, if this were to become part of the *Nevada Constitution*, to then create a state-operated lottery system.

In answer to your second question making reference to the wording, "the Legislature shall not authorize the operation of any private lottery," that is correct. It would prohibit the state from authorizing private casinos to operate their own lotteries, but would not prohibit the state from operating a state-owned lottery and authorizing private entities to be agents who conduct that lottery on behalf of the state, such as selling tickets.

Assemblyman Elliot T. Anderson:

How would that affect the progressive or Megabuck slots? This Committee needs clarification on what slots this would prohibit.

John Wagner, representing Independent American Party:

I am talking about competing with our number one industry. I do not believe it is a good policy. I do not believe the state should be in the business of running a lottery. You need employees and so forth. How many people in Nevada would participate in the lottery? I could have my daughter in California buy me lottery tickets, but I do not gamble. If you want to buy lottery tickets, go to California because they have Megabucks. Is Nevada going to have that type of lottery? I doubt it. That is another reason why I do not think we should be in the lottery business.

Kevin Powers:

This is a follow-up on Assemblyman Elliot Anderson's question. The systems currently operated by the casinos, where there are linked slot machines and those type of systems, are not now considered lotteries. If they were lotteries, they would be prohibited by the current constitutional provision. This provision would not prohibit any more than what it does now in regard to private systems.

Chair Stewart:

Is there anyone in the neutral position on this bill? [There was no one.]
Assemblyman Munford, please come forward for your closing statement.

Assemblyman Munford:

I want to extend my appreciation for everyone taking their time in support of this bill. I will be termed out this session, and this has to pass through two legislative sessions, so I want to pass this bill on to one of my colleagues to continue with this effort. Assemblymen Ohrenschall, Elliot T. Anderson, and Thompson were vocal in support of this legislation.

Chair Stewart:

Your term limitation will be a loss to the Assembly.

Assemblyman Ohrenschall:

There was previous testimony about the number of Nevadans who drive to the border to buy California lottery tickets. From 2007-2008, there were over \$3 billion in lottery sales in California. A good portion of that is Nevadans spending money supporting California that could be helping our social services and education here in this state. It is almost like a tax from another state on Nevadans which I think most of us would not want. The important thing for Committee members to understand is that this is about giving the voters a choice. If the bill passes in this and the next session, in 2018, let the voters decide if they want to amend the *Nevada Constitution* to remove the prohibition. The final choice would be up to the voters.

Assemblywoman Fiore:

Assemblyman Munford, thank you for bringing this bill forward and even though this is your last session in the Assembly, there is always the Senate.

Assemblyman Munford:

Assemblyman Ohrenschall said it plain and clear that it is a people's piece of legislation. We hope we can get it to the people for their voices to be heard.

Chair Stewart:

Is there anyone here for public comment? [There was no one.] The hearing on Assembly Joint Resolution 6 is closed. The meeting is adjourned [at 5:51 p.m.].

RESPECTFULLY SUBMITTED:

Patricia Hartman
Committee Secretary

APPROVED BY:

Assemblyman Lynn D. Stewart, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: March 19, 2015

Time of Meeting: 4:04 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 94	C	Carol M. Stonefield, Committee Policy Analyst	Work Session Document
A.B. 252	D	Doug Goodman, representing Nevada Election Modernization and Reform Act	Written Testimony