



Office of the Governor

JIM GIBBONS
GOVERNOR

January 8, 2009

Senator Steven A. Horsford
1306 West Craig Road, Suite E310
North Las Vegas, NV 89032-0215

Speaker Barbara Buckley
5442 Holbrook Drive
Las Vegas, NV 89103-2439

Dear Senator Horsford and Speaker Buckley,

Regretfully, both of you missed the two open door meetings held with Legislators, the most recent being on Wednesday of this week. There are several issues I would like to bring to your attention.

First, Legislative Counsel Brenda Erdoes has communicated with my General Counsel Adriana Fralick that the LCB Legal Division will be unavailable to draft bills for my office for the potential Special Session. The LCB Legal Division has twenty-seven attorneys; in my office I have one attorney. It will be very difficult to hold a Special Session when my office can only draft one bill at a time, and may necessitate calling multiple Special Sessions to solve the fiscal crisis facing Nevada.

Given that information, I would like to draw your attention to NRS 218.240, which states:

“NRS 218.240 Assistance of Legislative Counsel and Legal Division of Legislative Counsel Bureau.

1. The Legislative Counsel and the Legal Division of the Legislative Counsel Bureau shall prepare and assist in the preparation and amendment of legislative measures when requested or upon suggestion as provided in NRS 218.240 to 218.255, inclusive. Except as otherwise provided in those provisions, the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau *shall not prepare or assist in the preparation and amendment of legislative measures directly submitted or requested by a natural person, corporation, firm, association or other entity, including an organization that represents governmental agencies, unless the requester, or if the requester is a natural person the office or other position held by the person, is created by the Constitution or laws of this State.*

2. *The Legislative Counsel shall give consideration to and service concerning any measure before the Legislature which is requested by the Governor, the Senate or Assembly, or any committee of the Legislature having the measure before it for consideration.*” (emphasis added)

After careful review of NRS 218.240 to NRS 218.255, most provisions reference certain deadlines and requirements relating to any regular session of the Nevada Legislature. My General Counsel has reviewed this statute and the remainder of Chapter 218 of the Nevada Revised Statutes, and has found no legal authority for the Legislative Counsel to decline my official request to draft legislation for a potential Special Session I may call of the Nevada Legislature, given Article 5, Section 1 of the Nevada Constitution states:

“Section. 1. **Supreme executive power vested in governor.** The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada.”

Given the collective provisions of the Nevada Constitution and NRS 218.240, I do not believe it is legally permissible for the Legislative Counsel to decline – or perhaps be instructed to decline - to draft legislation for the Governor. A prompt reply to this quandary is appreciated, as the necessity for a definitive answer vis-à-vis the court system is imminently ripe should the Legislative Counsel not perform her Constitutional and statutory duties to draft legislation for the Governor.

Secondly, while the past two meetings with Legislators have been productive, the only ideas and proposals presented thus far have been from my office. At yesterday’s meeting I requested that when we meet in two weeks, Legislators bring their ideas to the table. I hope you will encourage that within your respective Chambers, and that you will be able to participate as well.

At the request of legislators, I have re-scheduled our next open-door meeting for January 26 at 2:30 p.m. I hope that we will have some of the Legislature’s ideas regarding solutions for Nevada’s budget crisis to consider at this meeting.

I look forward to working with you and the members of the Nevada Legislature to assure that the needs of the citizens of Nevada are served by working together to get our economy back on track.

Sincerely,


JIM GIBBONS
Governor

cc: Lorne Malkiewich, Director, Legislative Counsel Bureau
Brenda Erdoes, Legislative Counsel
Honorable Members of the Nevada Assembly
Honorable Members of the Nevada Senate