

FILED

JUN 26 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

**PETITIONERS' MOTION
TO SUPPLEMENT RECORD
REGARDING JURISDICTIONAL
ISSUES**

**SUPPLEMENTAL
EXHIBIT 1**

**RESOLUTION OF
LEGISLATIVE COMMISSION**



**THE LEGISLATIVE COMMISSION
OF THE STATE OF NEVADA**

In the Matter of Litigation in the Cases of
Settlemeyer v. State of Nevada, Case No. 19-
OC-00127-1B, First Judicial District Court,
Carson City, and *State ex rel. Cannizzaro v.*
First Judicial District Court, Case No. 80313,
Nevada Supreme Court.

**RESOLUTION OF THE
LEGISLATIVE COMMISSION**

WHEREAS, At the meeting of the Legislative Commission held on December 30, 2019, the Chief
Litigation Counsel of the Legal Division of the Legislative Counsel Bureau (Legal Division) provided a
litigation report on the status of the case of *Settlemeyer v. State of Nevada*, Case No. 19-OC-00127-1B,
First Judicial District Court, Carson City; and

WHEREAS, The Chief Litigation Counsel reported that the plaintiffs are challenging the
constitutionality of Senate Bill No. 542 and Senate Bill No. 551 of the 2019 Legislative Session under
the two-thirds majority requirement in Article 4, Section 18 of the Nevada Constitution, and that the
plaintiffs include eight members of the Senate—the Plaintiff Senators—who voted against the bills; and

WHEREAS, The Chief Litigation Counsel reported that the plaintiffs named several state officers
and agencies of the executive and legislative branches as defendants in their official capacity, including
the Legislative Defendants—Senator Nicole J. Cannizzaro, in her official capacity as the Senate
Majority Leader; and Claire J. Clift, in her official capacity as the Secretary of the Senate; and

1 WHEREAS, The Chief Litigation Counsel reported that from the onset of this case, the Legislative
2 Defendants have been represented in their official capacity by the Legal Division as their statutorily
3 authorized counsel pursuant to NRS 218F.720; and

4 WHEREAS, The Chief Litigation Counsel reported that on December 19, 2019, the district court
5 entered an order which granted the motion of the Plaintiff Senators to disqualify the Legal Division from
6 representing the Legislative Defendants in their official capacity pursuant to NRS 218F.720 and required
7 those defendants to obtain separate outside counsel to represent them in their official capacity; and

8 WHEREAS, The Chief Litigation Counsel explained that the district court's order disqualifying the
9 Legal Division from representing the Legislative Defendants in their official capacity would be binding
10 on the Legal Division unless appellate review of the disqualification order was sought by filing a
11 petition for writ of mandamus with the Nevada Supreme Court; and

12 WHEREAS, The Chief Litigation Counsel presented an item for consideration and action by the
13 Legislative Commission as follows: "The item would be that to protect the official interests of the
14 Legislature, the Legislative Commission directs the Legislative Counsel and LCB Legal [Division]
15 under NRS 218F.720 to take all actions necessary to seek, commence, prosecute a mandamus appellate
16 review action in the Nevada Supreme Court to seek appellate review of the district court's
17 disqualification order in the case of *Settelmeyer v. State*."; and

18 WHEREAS, After consideration and discussion, the Legislative Commission approved a motion to
19 direct the Legal Division to take whatever legal action necessary to represent the Legislature in this
20 action as set forth by the Chief Litigation Counsel; and

21 WHEREAS, Because the Legislative Commission approved the motion which expressly
22 incorporated the action item as set forth by the Chief Litigation Counsel, the Legislative Commission
23 clearly approved the action item and authorized the Legal Division pursuant to NRS 218F.720 to take all
24 actions necessary to seek, commence and prosecute a mandamus appellate review action in the Nevada

1 Supreme Court to seek appellate review of the district court's disqualification order in the case of
2 *Settelmeyer v. State of Nevada*; and

3 WHEREAS, On January 3, 2020, the Legal Division filed a petition for writ of mandamus in the
4 case of *State ex rel. Cannizzaro v. First Judicial District Court*, Case No. 80313, Nevada Supreme
5 Court, on behalf of the following petitioners—State of Nevada ex rel. Senator Nicole J. Cannizzaro, in
6 her official capacity as the Senate Majority Leader; Claire J. Clift, in her official capacity as the
7 Secretary of the Senate; the Legal Division, in its official capacity as the legal agency of the Legislative
8 Department; Brenda J. Erdoes, Esq., in her official capacity as Legislative Counsel and Chief of the
9 Legal Division and in her professional capacity as an attorney and licensed member of the State Bar of
10 Nevada; and Kevin C. Powers, Esq., in his official capacity as Chief Litigation Counsel of the Legal
11 Division and in his professional capacity as an attorney and licensed member of the State Bar of
12 Nevada; and

13 WHEREAS, On January 24, 2020, in their answer to the petition for writ of mandamus, the Plaintiff
14 Senators suggested that the mandamus appellate review action filed on behalf of the petitioners has
15 potential jurisdictional defects due to improper authorization by the Legislative Commission at the
16 meeting held on December 30, 2019; and

17 WHEREAS, On January 31, 2020, the petitioners, in their reply to the answer, responded to the
18 jurisdictional issues by arguing that, at the meeting held on December 30, 2019, the Legislative
19 Commission clearly approved the action item as set forth by the Chief Litigation Counsel and authorized
20 the Legal Division pursuant to NRS 218F.720 to seek, commence and prosecute the mandamus appellate
21 review action filed on behalf of the petitioners; and

22 WHEREAS, Under well-established rules of law, “[a] legislative body may ratify any action that it
23 had the power to authorize in advance and the ratification dates back to the action that was ratified.”
24 (*Mason’s Manual of Legislative Procedure* § 146(6) (2010)); now, therefore, be it

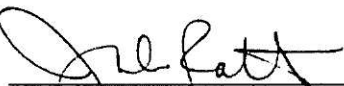
1 RESOLVED BY THE LEGISLATIVE COMMISSION OF THE STATE OF NEVADA, That by means of this
2 resolution and for the purpose of removing any doubts regarding its authorization, the Legislative
3 Commission hereby ratifies its approval of the action item as set forth by the Chief Litigation Counsel at
4 the meeting held on December 30, 2019, which authorized the Legal Division pursuant to
5 NRS 218F.720 to seek, commence and prosecute the mandamus appellate review action filed on behalf
6 of the petitioners, and hereby ratifies the petition for writ of mandamus filed on behalf of the petitioners
7 and all other actions taken by the Legal Division on behalf of the petitioners in the case of *State ex rel.*
8 *Cannizzaro v. First Judicial District Court*; and be it further

9 RESOLVED, That the Legislative Commission's ratification in this resolution relates back to the
10 date of its approval of the action item as set forth by the Chief Litigation Counsel at the meeting held on
11 December 30, 2019, which authorized the Legal Division pursuant to NRS 218F.720 to seek, commence
12 and prosecute the mandamus appellate review action filed on behalf of the petitioners in the case of
13 *State ex rel. Cannizzaro v. First Judicial District Court*.

14 PASSED, APPROVED AND ADOPTED on this 6th day of February 2020.

15 **LEGISLATIVE COMMISSION OF**
16 **THE STATE OF NEVADA**

17 By:



SENATOR JULIA RATTI

Vice Chair of the Legislative Commission

19 ATTEST:



MARK KRMPOTIC

Acting Secretary of the Legislative Commission



**LEGISLATIVE COUNSEL BUREAU
OF THE STATE OF NEVADA**

In the Matter of Litigation in the Cases of *Settelmeyer v. State of Nevada*, Case No. 19-OC-00127-1B, First Judicial District Court, Carson City, and *State ex rel. Cannizzaro v. First Judicial District Court*, Case No. 80313, Nevada Supreme Court.

DECLARATION AND CERTIFICATION REGARDING RESOLUTION OF THE LEGISLATIVE COMMISSION

STATE OF NEVADA)
)
COUNTY OF CARSON) **ss.**

Pursuant to NRS 53.045, Brenda J. Erdoes, Esq., declares under penalty of perjury under the law of the State of Nevada that the following is true and correct:

1. I have personal knowledge of the matters set forth in this declaration and certification, and I am competent to testify regarding the matters set forth in this declaration and certification.

2. I am an attorney admitted to practice law in the State of Nevada, and I am a licensed member of the State Bar of Nevada.

3. Pursuant to Nevada's laws and rules governing the Legislative Department of the State Government (Legislative Department), I am the Legislative Counsel of the State of Nevada appointed pursuant to NRS 218F.100, and I am the Chief of the Legal Division of the Legislative Counsel Bureau (LCB) pursuant to that statute.

1 4. Pursuant to Nevada's laws and rules governing the Legislative Department, the Legislative
2 Commission of the State of Nevada (Legislative Commission) held a public meeting on February 6,
3 2020 (February 6 meeting), at the following locations through a simultaneous videoconference:

4 (a) Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada.

5 (b) Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas,
6 Nevada.

7 5. Pursuant to Nevada's laws and rules governing the Legislative Department, in my official
8 capacity as the Legislative Counsel and Chief of the Legal Division of the LCB, I am authorized to
9 make this declaration and certification, and I hereby declare and certify that:

10 (a) I personally attended the February 6 meeting of the Legislative Commission.

11 (b) At the February 6 meeting, the Legislative Commission considered a resolution entitled:

12 In the Matter of Litigation in the Cases of *Settelmeyer v. State of Nevada*, Case No. 19-OC-
13 00127-1B, First Judicial District Court, Carson City, and *State ex rel. Cannizzaro v. First*
14 *Judicial District Court*, Case No. 80313, Nevada Supreme Court.

15 (c) At the February 6 meeting, the Legislative Commission passed, approved and adopted the
16 resolution in the manner required by the laws and rules governing the Legislative Department.

17 (d) The resolution is an official record kept by the LCB in the performance of its official duties
18 for the Legislative Department.

19 (e) This declaration and certification is attached to a true and correct copy of the resolution as
20 passed, approved and adopted by the Legislative Commission at the February 6 meeting and kept as an
21 official record by the LCB in the performance of its official duties for the Legislative Department.

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1 Pursuant to NRS 53.045, I declare under penalty of perjury under the law of the State of Nevada
2 that the foregoing is true and correct.

3 EXECUTED ON: This 6th day of February 2020.

4
5 By: 

BRENDA J. ERDOES

Legislative Counsel

Nevada Bar No. 3644

7 LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION

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