

Jeremiah Todd
Elections Chairman
Associated Students of the University of Nevada

Dear Sir:

In response to your request, I offer the following opinion:

The question posed is whether or not certain lines and paragraphs contained in ASUN Public Law 75-25 “Election Regulation Act of 2007” are actually being amended/repealed by ASUN Public Law 76-17 when considering the references to Public Law 75-25 are in error. According to Public Law 76-17 certain *Sections* of Public Law 75-25 are either amended or repealed:

Public Law 76-17 Section 7 (a):

Section 8 of the ASUN Election Code (Public Law 75-25; 75 ASUN STAT,85) is amended to add Section 8(f)(1) to read “The Candidates for all positions shall be required to submit a fifty dollar (\$50.00) deposit.”

The error with this amendment lies in the fact that Public Law 75-25 only has three (3) Sections and that the portion meant to be amended is Section 2 §8. And thus Public Law 76-17 Section 7 (a) **should** read:

Section 2 §8 of the ASUN Election Code (Public Law 75-25; 75 ASUN STAT,85) is amended to add **Section 2 §8(f)(1)** to read “The Candidates for all positions shall be required to submit a fifty dollar (\$50.00) deposit.”

In actuality, every reference to a “Section” of Public Law 75-25 being amended or repealed by Public Law 76-17 is incorrect and should be referenced as “Section 2 §”. Furthermore, Public Law 76-17 is not the first Public Law to contain such an error in terms of referencing a word, phrase, line or paragraph of an older bill being amended, repealed or stricken by a more recent bill. Public Law 75-55, Public Law 76-01, Public Law 76-06, and Public Law 76-15¹ all contain at least one referencing error similar to that of Public Law 76-17. It can be suspected that more errors are present in current ASUN Public Law.

The question posed is whether or not such laws, specifically ASUN Public Law 76-17, are actually amending their previous laws or are void because the referenced sections are incorrect or nonexistent. The ASUN has been operating under the supposition that Public Law 76-17 (and the above mentioned laws) is correct and fully functional. To say that this law is incorrect and thus void creates risks in halting the entire Association as every Public Law would need to be reviewed for accuracy.

The State of Nevada contains within its Revised Statutes the ability of their Legislative Counsel to correct clerical errors prior to introduction.

NRS 218.250 Determination of form and correction of mistakes by Legislative Counsel.

1. Before introduction, each bill shall be delivered to the Legislative Counsel for the purpose of determining if the bill is in the proper form as prescribed by law or rule of the houses. The Legislative Counsel shall have authority to correct any clerical error such as orthography, adding or correcting the enacting clause, mistakes in numbering sections and references thereto, and in any other particular wherein the bill does not comply in form with law or rule of the houses.

This ability is extended to signed bills for correction by the Legislative Commission.

¹ There should be expressed the renumbering of Sections in ASUN Public Law 75-49 pursuant to “striking Section 5” as enacted by this law.

*Short Title of the bill pursuant of Public Law 76-17 Section 14(b)

NRS 218.445 Correction by Legislative Commission after adjournment of Legislature. The Legislative Commission shall have the authority to correct typographical and clerical errors in the style and manner of printing contained in enrolled bills after such bills are signed by the Governor and after the Legislature has adjourned. A decision by the Commission to correct typographical and clerical errors shall be made only upon a unanimous vote of all members present at the meeting, but no such decision shall be made at any meeting attended by less than seven members. The Commission may be called into session for this purpose by its Chairman at the request of the Governor, or by the Chairman in his discretion, or by a majority vote of the entire membership of the Commission. All members of the Senate and Assembly shall be given written notice of all such meetings of the Commission at least 10 days prior thereto. The notice shall contain a description of the typographical and clerical errors proposed to be corrected

The position and duties of the Archivist of the Associated Students are set forth by ASUN Public Law 75-36 and Public Law 75-39.

Public Law 75-39 Section 15:

The Archivist of the Associated Students shall cause to be compiled, edited, indexed, and published, the Associated Students Statutes at Large, which shall contain all the laws and resolutions enacted during each regular session of the Senate; all proclamations by the President in the numbered series issued since the date of the adjournment of the regular session of the Senate next preceding; and also any amendments to the Constitution of the Associated Students proposed or ratified pursuant to Article V thereof since that date, together with the certificate of the Archivist of the Associated Students issued in compliance with the provision contained in section (14) of this Act.

In Conclusion

This serious error should have been noticed at every stage during the passage, signing, enrollment² and enactment of ASUN Public Law 76-17. It is, in my opinion, that ASUN Public Law 75-39 gives the ability of the Archivist of the Associated Students to correct clerical error in Public Law, as long as it does not change the meaning of the Law in a similar manner that NRS 218.250 and NRS 218.445 give this ability respectively to the Legislative Counsel and Commission. The Archivist can edit the clerical mistakes in Public Law 76-17 pursuant to Public Law 75-39 as long as the intention of the law remains unchanged; as such, Public Law 76-17 is a valid law.

The Senate should propose legislation for the creation of a position under the ASUN whose sole duty is to create and maintain uniformity in the formatting and referencing of ASUN Resolutions, Bills, and Laws. The written structures of Public Laws and referencing thereof differentiate greatly amongst one another and should be subject to quality control as established by the Senate. This position would assist in the duties currently set forth by law directing the Secretary of the Senate and the Archivist of the Associated Students to handle such cases. If the person in this position were charged with the duties of creating a manual regarding the proper referencing and structure of bills, resolutions and laws as directed by the ASUN Senate, these mistakes would cease to exist.

Respectfully,

Trevor Macaluso
ASUN Attorney General

² The Secretary of the Senate should be held responsible for failing to abide by Senate Rule XIX (e)(2)(D) as adopted by the Senate in Resolution 77-04.