

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENDALL STAGG,
Petitioner,

vs.

THE LEGISLATURE OF THE STATE
OF NEVADA; HON. ROSS MILLER,
PRESIDENT OF THE SENATE; HON.
BARBARA BUCKLEY, SPEAKER OF
THE ASSEMBLY; SENATOR MARK
AMODEI; SENATOR SHIRLEY
BREEDEN; SENATOR TERRY CARE;
SENATOR MAGGIE CARLTON;
SENATOR BARBARA CEGAVSKE;
SENATOR BOB COFFIN; SENATOR
ALLISON COPENING; SENATOR
WARREN HARDY; SENATOR STEVEN
HORSFORD; SENATOR JOHN LEE;
SENATOR BERNICE MATTHEWS;
SENATOR MIKE MCGINNESS;
SENATOR DENNIS NOLAN; SENATOR
DAVID PARKS; SENATOR WILLIAM
RAGGIO; SENATOR DEAN RHOADS;
SENATOR MICHAEL SCHNEIDER;
SENATOR RANDOLPH TOWNSEND;
SENATOR MAURICE WASHINGTON;
SENATOR VALERIE WIENER;
SENATOR JOYCE WOODHOUSE;
ASSEMBLYMAN PAUL AIZLEY;
ASSEMBLYMAN BERNIE ANDERSON;
ASSEMBLYMAN MORSE ARBERRY;
ASSEMBLYMAN KELVIN ATKINSON;
ASSEMBLYMAN DAVID BOBZIEN;
ASSEMBLYMAN JOHN CARPENTER;
ASSEMBLYMAN CHAD
CHRISTENSEN; ASSEMBLYMAN
JERRY CLABORN; ASSEMBLYMAN TY
COBB; ASSEMBLYMAN MARCUS
CONKLIN; ASSEMBLYMAN MOISES
DENIS; ASSEMBLYWOMAN MARILYN

No. 53511

FILED

APR 13 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

DONDERO LOOP; ASSEMBLYWOMAN
HEIDI GANSERT; ASSEMBLYMAN ED
GOEDHART; ASSEMBLYMAN PETE
GOICOECHEA; ASSEMBLYMAN TOM
GRADY; ASSEMBLYMAN DON
GUSTAVSON; ASSEMBLYMAN JOHN
HAMBRICK; ASSEMBLYMAN JOSEPH
HARDY; ASSEMBLYMAN JOSEPH
HOGAN; ASSEMBLYMAN WILLIAM
HORNE; ASSEMBLYMAN RUBEN
KIHUEN; ASSEMBLYWOMAN
MARILYN KIRKPATRICK;
ASSEMBLYWOMAN ELLEN
KOIVISTO; ASSEMBLYWOMAN
SHEILA LESLIE; ASSEMBLYMAN
MARK MANENDO;
ASSEMBLYWOMAN APRIL
MASTROLUCA; ASSEMBLYMAN
RICHARD MCARTHUR;
ASSEMBLYWOMAN KATHY
MCCLAIN; ASSEMBLYMAN HARRY
MORTENSON; ASSEMBLYMAN
HARVEY MUNFORD; ASSEMBLYMAN
JOHN OCEGUERA; ASSEMBLYMAN
JAMES OHRENSHCALL;
ASSEMBLYWOMAN BONNIE
PARNELL; ASSEMBLYWOMAN
PEGGY PIERCE; ASSEMBLYMAN
TICK SEGERBLOM; ASSEMBLYMAN
JAMES SETTELMAYER;
ASSEMBLYWOMAN DEBBIE SMITH;
ASSEMBLYWOMAN ELLEN SPIEGEL;
ASSEMBLYMAN LYNN STEWART;
AND ASSEMBLYWOMAN MELISSA
WOODBURY,
Respondents.

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges the ability of the Nevada Legislature to consider a bill, Senate Bill 372, that proposes amending NRS 202.2483, the “Nevada Clean Indoor Air Act.” Petitioner contends that because the statute was enacted through the initiative process, the Legislature is prohibited from taking any action to amend the statute before the three-year time period established under Article 19 § 2(3) of the Nevada Constitution has expired.

A writ of mandamus is available to compel the performance of an act that the law requires or to control a manifest abuse of discretion. See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). A writ of prohibition is available to arrest the proceedings of “any tribunal, corporation, board or person exercising its judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person.” NRS 34.320. Mandamus and prohibition are extraordinary remedies, however, and the decision to entertain such petitions is addressed to our sole discretion. Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). Petitioner bears the burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having reviewed the petition and supporting documentation, we are not persuaded that extraordinary intervention by this court is appropriate at this time. Specifically, the issues presented by this writ petition are not ripe for our review. In determining whether a matter is ripe for our review, we consider “(1) the hardship to the parties of withholding judicial review, and (2) the suitability of the issues for

review.” Matter of T.R., 119 Nev. 646, 651, 80 P.3d 1276, 1279 (2003). The present petition fails to meet these factors. Indeed, petitioner concedes that whatever harm might occur if the Legislature passes S.B. 372, “such harm would be highly speculative since the measure may not even pass.” Consequently, there is no hardship to the parties and the issues are not suitable for this court’s review because, as petitioner points out, no amendment to the current statute has occurred. Until the Legislature enacts any legislation that amends NRS 202.2483, this court’s intervention is premature, as there is no justiciable controversy for this court to resolve. See Doe v. Bryan, 102 Nev. 523, 525, 728 P.2d 443, 444 (1986) (explaining that this court has consistently required “an actual justiciable controversy as a predicate to judicial relief”). Accordingly, we

ORDER the petition DENIED.

1 Hardesty, C.J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Kendall Stagg
Legislative Counsel Bureau Legal Division, Brenda J. Erdoes