

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Sixth Session
February 9, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 8:02 a.m. on Wednesday, February 9, 2011, in Room 3138 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/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman William C. Horne, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Steven Brooks
Assemblyman Richard Carrillo
Assemblyman Richard (Skip) Daly
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Jason Frierson
Assemblyman Scott Hammond
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Richard McArthur
Assemblyman Tick Segerblom
Assemblyman Mark Sherwood

COMMITTEE MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Nick Anthony, Committee Counsel
Jeffrey Eck, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

John McCormick, Rural Courts Coordinator, Administrative Office
of the Courts
Nancy Saitta, Associate Justice, Nevada Supreme Court
Ben Graham, representing the Administrative Office of the Courts
Elizabeth Gonzalez, Judge, Eighth Judicial District Court, Las Vegas,
Nevada
Javier Trujillo, Intergovernmental Relations Specialist, City of Henderson,
Nevada
Polly Sheesley, Internal Auditor, City of Henderson, Nevada
Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department, Nevada

Chairman Horne:

We will bring the Judiciary Committee to order. [Roll was called.] We will start today with an overview of the court systems of Nevada. Mr. McCormick is from the Administrative Office of the Courts (AOC).

John McCormick, Rural Courts Coordinator, Administrative Office of the Courts:

I am here today to provide a brief overview of the Nevada Judicial Branch. Chief Justice Michael Douglas and Robin Sweet, our State Court Administrator, are required to be at the judicial selection proceedings in Reno today. I provided a PowerPoint presentation ([Exhibit C](#)) to the committee staff, and I will use that as a tool from which to present. The Nevada Judicial Branch has three levels: the Supreme Court, the district courts, and the justice and municipal courts.

The Supreme Court has seven justices, and they sit in three-judge panels or *en banc*, which means all seven. They sit *en banc* when they are considering issues of precedent or of legal importance where there is little case law. The Supreme Court also administers the Judicial Branch. They can issue extraordinary writs, they are in charge of the license and discipline of lawyers, and they are the only appellate court in the state of Nevada.

On slide four, you will see a breakdown of the case load of the Supreme Court, which includes the number of cases filed and the number of cases disposed. As the only appellate court in the state, the Supreme Court handles all appeals.

On the next slide you will see a statistical comparison of the Nevada Supreme Court caseload with those of other states of comparable size. You will see that Nevada has 324 cases per justice per year, which is more than all the other states in the comparison, including Arizona, which is significantly larger than Nevada in population.

The district courts are what we call our courts of general jurisdiction. We have nine judicial districts that cover the 17 counties in Nevada. As of January 1, 2011, there are 82 district judges, and that number includes the family court judges. District courts preside over gross misdemeanor and felony criminal cases and handle all civil matters over \$10,000. They have exclusive juvenile jurisdiction, and they also handle family matters such as custody and divorce. The salaries of district court judges are paid through the State General Fund, and the operating expenses of the courtrooms are covered by the counties.

On slide six, you can see the caseloads of our district courts, which include the number of cases filed and the number of cases "disposed," meaning "decided." The justice courts are what we call courts of limited jurisdiction. There are currently 65 justices of the peace in the state of Nevada. These judges preside over preliminary hearings for gross misdemeanor and felony cases. This means that they hold the initial hearing to determine whether there is enough evidence to send a criminal proceeding to district court for trial. They also handle misdemeanor cases, and these are the cases that we are probably all most familiar with. These are traffic tickets and similar types of matters. They also handle civil matters under \$10,000, as well as small claims cases, which are those civil matters up to \$5,000.

The justice courts and the municipal courts are our busiest courts in the state, handling the most cases in 2010. The justice courts handled 219,440 non-traffic cases. Over a half-million traffic charges were filed in our justice courts last year. The county general fund is the funding source for the justice courts. This means that the counties pay the salaries of the justices of the peace, as well as the operating costs of the justice courts. We have nine justices of the peace that have dual duty. They serve as both justice of the peace for the township they are in and as the municipal court judge for the township. Municipal courts are creatures of the city. They are a little different as far as their creation from the justice court, the district court, and the Supreme Court, which are all constitutionally created. Municipal courts are

authorized by the legislature when a city is incorporated. These are also courts of limited jurisdiction, and generally they handle misdemeanor matters and traffic cases within their incorporated communities. Municipal courts generally do not handle civil matters. We have a few municipal courts that handle civil cases on disputes over dogs and unpaid utility bills, but that is very minimal. They generally handle the criminal matters. These are funded exclusively by the city general fund.

Specialty courts are also referred to as "therapeutic courts." The first of these courts in Nevada was started in Clark County in 1991. Today, we are very happy as the Judicial Branch to say that there is a drug court available to every citizen in the state of Nevada, as there is a drug court program that covers every county.

The first rural drug court program we had is called the Western Regional Drug Court, and that was pioneered by Judge Archie Blake. It covers several counties in western rural Nevada, such as Lyon County, Churchill County, Mineral County, and others. The first Mental Health Court was established in Reno in 2001, and Judge Peter Breen has been a champion there. Senior Judge Jack Lehman is kind of a national rock star in the drug court arena for having established the first drug court.

The specialty courts get their funding in a few ways. They get some local funding. The salary of the district judge is obviously paid by the state. In 2003, the Legislature had the foresight to enact Assembly Bill No. 29 of the 72nd Session, which provides an administrative assessment that helps to fund specialty courts. It has since then allowed the Supreme Court to fund these programs and ensure the continued existence and expansion of these programs.

Currently, there are 43 specialty court programs in the state of Nevada. On slide 11, you will see a funding breakdown that I will not go into. In fiscal year 2010, our specialty courts served over 3,400 defendants, and 1,300 of these defendants graduated from this program. A mark of pride is the 57 drug-free babies that were born to mothers participating in drug court programs. In previous years, we have had over 70.

On slide 12, you will see a breakdown of where the drug courts and specialty courts exist, including the Veteran's Court in Washoe County, which was enabled by the Legislature during the 75th Session. The Judicial Branch is pleased to have a drug court covering every county in the State of Nevada.

Business courts represent another type of specialty jurisdiction that exists within the State of Nevada, particularly in the Second Judicial District of Washoe County, which is the second largest district in the state. The Eighth Judicial District of Clark County is the largest judicial district and has the highest caseload. Business court filings are down, however. This type of court allows those business matters to be decided in an expedient fashion.

The Judicial Branch receives a substantial amount of its funding through administrative assessments, which are the fees charged on misdemeanor criminal violations when someone is found guilty or pleads guilty. There is a brief history of administrative assessments on slide 14. They initially began in 1983 as a way to fund the court system. You can see the actions taken by the Legislature through 2010 and the 26th Special Session.

On the next page, you will see how administrative assessments are paid and what the assessment is on the fine. If a person gets a \$50 ticket, there is a \$45 administrative assessment. Additionally, there is a \$7 specialty court administrative assessment. There is also a \$10 court facility fee, which a county can establish through ordinance. That provides a significant amount of funding for the Judicial Branch, approximately 68 percent, I believe.

Administrative assessments also provide a funding source for the local courts. Two dollars of every administrative assessment is retained in the local jurisdiction for juvenile court programs, and \$7 stays with the local court to provide them some funding. Administrative assessments also provide funding for Executive Branch programs at the state level. After the initial collections come off, including the \$2 for the juvenile programs, \$7 for the local court, and \$5 for the General Fund, pursuant to Assembly Bill No. 6 of the 26th Special Session, fifty-one percent of the remaining revenue goes to the Supreme Court. That revenue funds the Supreme Court, the AOC, which administers the Judicial Branch as well as provides education for the judges and court staff, and the Uniform System of Judicial Records, which is the system that collects the records that are provided to you in *The Annual Report of the Nevada Judiciary* ([Exhibit D](#)).

Twelve percent of the administrative assessment revenue of the Supreme Court funds the specialty court programs, and 3-1/2 percent covers the senior judge program, which allows senior judges to hear matters in courts where district judges are unavailable.

The Executive Branch portion funds a number of programs, including the Criminal History Repository, the Fund for Victims of Crime, Peace Officers' Standards and Training, the Department of Public Safety computer system, the

Council for Prosecuting Attorneys, and programs relating to domestic violence in the Office of the Attorney General.

On the next page, you will see a chart representing historical collections of the Executive and Judicial Branch from the administrative assessment. They are projected to go down or stay flat from this point forward.

The AOC is the administrative arm of the Supreme Court. That department creates several reports that are required to be submitted to the Legislature, including its report on specialty courts and the Uniform System for Judicial Records report, both of which are contained in the annual report. The AOC also assists the Judicial Branch in administration. It provides the personnel and administration for the Supreme Court, as well as the district courts. They conduct education to ensure that judges get the required continuing education and attend the statutorily mandated training at the National Judicial College in Reno. When they are newly elected, they are required to attend classes there. The AOC oversees trial court services such as interpreter programs, specialty court funding, et cetera. We at AOC also work on technology issues.

On the next slide, you will find a breakdown of the various portions of the AOC and what they do. On slide 20, we have information technology. Under those broad areas, the Supreme Court and the AOC have undertaken some initiatives as of late. Through the cooperation with some federal grant funds, the AOC has been able to expand videoconferencing into some of the rural courts, which allows litigants to appear remotely in civil matters to cut down on travel time. It also allows our legal service providers in the urban areas greater access to help folks out in the rural areas through the use of that videoconference equipment. It also facilitates education and communication amongst the Judicial Branch. The Information Technology Division of the AOC has also expanded the e-filing options of the Supreme Court so that documents can be filed electronically there. That has sped up the process and eliminated a lot of paperwork.

An additional program that exists in the AOC is the Foreclosure Mediation Program, which was authorized by Assembly Bill No. 149 of the 75th Session. We are the only state in the country that currently has a mandatory foreclosure mediation program. This program requires that when a Notice of Default and Intent to Sell is filed for a foreclosure notice, the homeowner and the lender have the option of opting into a mediation program to see whether they can come to a resolution that will allow people to keep their homes. In 2010, almost 80,000 foreclosure notices were filed in the State of Nevada. Of those, almost 9,000 homeowners requested the mediation, and 6,614 mediations were assigned. Four thousand were completed. Approximately 89 percent of those

completed mediations have not ended in foreclosure. Homeowners have been able to retain their homes in 74 percent of those completed mediations. Currently, the Supreme Court has 270 appointed and trained mediators. This program is governed by Supreme Court rule, and that is evolving. The Supreme Court actually just heard the first appellate matter regarding foreclosure mediation on February 7, 2010.

Another important component of the Judicial Branch of the state of Nevada is the Judicial Council. This is a council consisting of judges and court administrators from all over the state, by region, that come together to set policy, to administer the judiciary, consider issues forwarded by the Supreme Court, look at legislation, recommend legislation to the Supreme Court for submission to the Legislature under the ten bill draft requests that we are granted, and develop recommendations for the court system, among other things. The Judicial Council is the primary policymaking body within the Judicial Branch. One of the neat things about this is that it allows judges from all corners of the state and at all levels of the judiciary to come together. The Supreme Court, the general jurisdiction district court judges, and the limited jurisdiction court judges all come together to discuss issues of importance to the Judicial Branch.

The Supreme Court has committees and commissions to consider important matters to the state, respond to issues that arise, and set Supreme Court rules to govern the Judicial Branch. One example is the Commission on Preservation, Access, and Sealing of Court Records. This Commission came up with the rules on sealing civil records. There was an issue on that in 2007, and the Supreme Court addressed that through this Commission. We recently had an administrative hearing on the matter, and the rules developed here have been pretty successful at keeping civil matters and records open to the public.

The Indigent Defense Commission (IDC) is also with the Supreme Court. This is a commission that is looking at the entire public defender system in the state of Nevada, and at ways to improve that. The court, through the IDC, came up with performance standards for defense attorneys defending indigents in Nevada. It is continuing its work to look at the caseload of public defenders in the state and determine whether those caseload standards are necessary.

The Specialty Court Funding Commission is an entity of the Supreme Court and the Judicial Council. It distributes the administrative assessment revenue that comes to the Court to fund the specialty court programs. It uses money gained as a result of the passage of Assembly Bill No. 29 of the 72nd Session. All of that money is passed directly through the Court to the local courts to do their specialty court programs. The AOC, through its budget, funds a coordinator for

that. Therefore, we have been able to keep all that revenue flowing through the courts to continue the good work of the specialty court programs. The Judicial Branch is governed by Article 6 of the *Nevada Constitution*, and this commission was formed of laypeople and non-Judicial Branch people to examine the Judicial Branch to see whether there are meaningful reforms that could be made.

The Court Improvement Program is an important entity within the AOC and within the Supreme Court. It is funded through a federal grant. Its goal is to improve the situation for children. It addresses dependency, abuse and neglect matters. It works hand in hand with court appointed special advocates, who are volunteer advocates for kids when they become involved with the court system through dependency-type matters.

The Access to Justice Commission is a joint venture between the Supreme Court and the State Bar of Nevada. Its goal is to expand access to justice for all the citizens of the State of Nevada. By "access to justice," I mean the ability for them to access the courts legal information through legal service providers, et cetera, and to ensure that all citizens can participate fairly.

The Benchmark Committee is a committee of lawyers in the Supreme Court who work on issues of practice, et cetera, with the State Bar of Nevada. We also have a committee to revise standardized protection order forms. These forms are maintained by the Supreme Court and the AOC to assist courts in issuing protective orders against domestic violence, stalking, and harassment. This allows the Judicial Branch as a whole to stay on top of the changes in the law and ensure that all of our courts are complying with those changes.

That is a brief overview of the Judicial Branch of the State of Nevada. I see Justice Nancy Saitta has joined us.

Chairman Horne:

Thank you, Mr. McCormick. Does Justice Saitta have any comments or presentations before I ask questions?

John McCormick:

Not that I am aware of.

Nancy Saitta, Associate Justice, Nevada Supreme Court:

Mr. Chairman, I am here to assist you as needed.

Chairman Horne:

Where is the Indigent Defense Commission at in their deliberations on their report on the caseload standards?

John McCormick:

There was an administrative hearing on February 7, 2011, at which time the Commission presented its definitions for data collection regarding indigent defense. That is being considered by the Court. It was asked that those be sent back to the Commission for implementation and to allow the Indigent Defense Commission of the Supreme Court to gather solid data regarding the caseloads for public defenders throughout the state of Nevada to provide a basis for determining whether caseload standards are warranted.

Chairman Horne:

How long has the Commission been working on this?

John McCormick:

The Commission has been working on this since 2007. It is a long-term effort.

Chairman Horne:

In a legislative sense, it would be important for us to know what direction the Supreme Court is taking and whether we will know anything before the session ends.

John McCormick:

As the information comes out, I will certainly forward it to you.

Chairman Horne:

The Legislature has addressed the potential need in this state for the Intermediate Appellate Court. Have there been any other discussions or movement on that?

John McCormick:

Senate Joint Resolution No. 9 of the 74th Session and Senate Joint Resolution No. 9 of the 75th Session failed at the ballot boxes in the most recent general election. There has been some talk of possibly reintroducing that. I do not know whether there have been any concrete developments.

Chairman Horne:

We will start with Mr. Hansen and then Mr. Sherwood.

Assemblyman Hansen:

I have a question regarding the Foreclosure Mediation Program on slide 22. There are 80,000 notices, but you only have a little over 12 percent of the people requesting mediations. The assigned mediations dropped by another 2,000, and the ones that were completed dropped to 4,000. I am curious as to why. Are people aware this program exists? How does the public know about it?

John McCormick:

I believe they are required to be informed when the notice of default is filed, and then it is optional to enter mediation. That is where you see the big drop. That notice of default number includes all notices of default that are filed, not just residential foreclosures. Assigned mediations are those that have reached the point in the process where they are assigned to a mediator. Four thousand have been completed, and that means there is a backlog there of about 2,200 that are still in process to be mediated.

Assemblyman Hansen:

Is there a screening process? Are there some that are just clearly beyond help? I noticed that between those requested and those assigned there is a gap of 2,000.

John McCormick:

There are some that fall out. They are the ones that do not meet the conditions. To minimize the fiscal impact of this, the homeowner and the lender have to pay into a fund that is used exclusively to compensate the mediators for conducting mediations. There are a number of factors for why people could, after electing to, decide not to go through with that process.

Assemblyman Hansen:

How is the program funded?

John McCormick:

In Assembly Bill No. 65 of the 75th Session, the fee to file a notice of foreclosure was increased to \$50, and a significant portion of that goes to the Foreclosure Mediation Program.

Chairman Horne:

Mr. Sherwood, and then Mr. Brooks.

Assemblyman Sherwood:

I have two questions. There is no question that the justices in Nevada have a much higher caseload than similar states. I cannot help but notice from your

slide that the number of cases filed is more than twice the number accepted. Look at a state that is similar to Nevada in demography and size, such as New Mexico. It has the same population as Nevada, but only half the number of cases. Arizona, a much bigger state than Nevada, has half as many cases.

John McCormick:

I believe you are referring to the slide on page 5. One thing you will note on there is that, particularly in New Mexico, there is an intermediate appellate court. The Supreme Court of New Mexico has some discretion on what appeals it hears. Matters of greater legal importance will be heard by the Supreme Court. The more routine matters would be heard by the court of appeals. You will see that a court of appeals does not exist in Nevada; so the Supreme Court of Nevada will hear things dealing with constitutional rights down to when a person has his driver's license revoked. The Supreme Court of Nevada takes all those cases, as it is the only appellate court.

Assemblyman Sherwood:

Can they decline those cases or, by law, do they have to take every appeal?

John McCormick:

The Supreme Court of Nevada is constitutionally obligated to hear all appeals from the district court level.

Assemblyman Sherwood:

And what about Arizona?

John McCormick:

Arizona has an intermediate appellate court. It is a fairly large one, with 22 judges. That allows the Arizona Supreme Court more latitude in the cases it hears.

Assemblyman Sherwood:

And they can decline the driver's license revocations and all of that?

John McCormick:

Those would probably be referred to the intermediate appellate court in Arizona.

Assemblyman Sherwood:

I noticed that we added a \$5 assessment that goes to the General Fund. It sounds like you are self-sufficient. Is that accurate?

John McCormick:

The breakdown on the percentage of funding for the Judicial Branch is on slide three. Approximately 66 percent of the Judicial Branch Supreme Court funding comes from administrative assessment revenue, and 33.2 percent comes from a General Fund appropriation. There are various accounts in the Supreme Court funded by those two sources. We also get 0.6 percent of our funding from fees and copy service charges. A majority, 66 percent, of the funding for the Branch comes through the administrative assessment revenue, which is primarily collected by the justice and municipal courts on misdemeanor offenses.

Assemblyman Sherwood:

Is there incentive for you to remain above that percentage? If you collect more revenue, does that go to you, or does that get taken from you?

John McCormick:

The Judicial Branch, statutorily, is entitled to 51 percent of administrative assessment revenue. If that revenue comes in above the legislatively authorized projections for the biennium, that excess revenue can be retained by the court, but the court is then required to revert the same amount from its General Fund appropriation back to the General Fund. The court gets 51 percent of that revenue, and if it is over, it actually results in a reversion of regular General Fund dollars to the state.

Assemblyman Brooks:

I have two questions. In reference to slide number 22, how do you evaluate the Foreclosure Mediation Program? What tool do you use? In determining whether the process is effective, is there any evaluation that you give to homeowners upon completion of the mediation program?

John McCormick:

I am not very familiar with the program. I do not believe there is any of that kind of assessment activity. I believe you are alluding to an evaluation of the program by the participants afterwards.

Assemblyman Brooks:

That is correct. This is the only state in which it is being done. I am trying to see how we evaluate the effectiveness of the program. That leads me to my second question. Will there be any formal presentation by the Foreclosure Mediation Program where we can ask questions in regard to how effective the program has been?

Chairman Horne:

I am certain that we can get someone here to go through that program, and to walk the Committee through the exact steps that are taken when a homeowner files, when they are notified, whether they meet the conditions to participate in the program, and how the mediators are assigned to the cases.

John McCormick:

We can certainly do that.

Chairman Horne:

Are there any other questions from the Committee? [There were none.]

Thank you very much. Thank you, Justice Saitta. Seeing no one else here to speak on this overview, we will move on to hearing a couple of bills. The first bill is Assembly Bill 7, relating to the disqualification of certain judges.

[Assembly Bill 7](#): Revises provisions relating to the disqualification of certain judges. (BDR 1-320)

Ben Graham, representing the Administrative Office of the Courts:

It is my honor to be here today. This is a procedural piece of legislation. I want to assure the Committee that just because you are titled "Judiciary" does not mean that for the rest of the Session you will be seeing judges and John or me. There will be other things coming up. I will turn this over to Judge Gonzalez, who is very experienced.

Elizabeth Gonzalez, Judge, Eighth Judicial District Court, Las Vegas, Nevada:

I am the presiding judge of the Civil Division of the Eighth Judicial District Court, and it is my honor and privilege to be here this morning. Thank you for inviting me.

Thank you for permitting me to appear and testify regarding the proposed amendment to the *Nevada Revised Statutes* (NRS) Chapter 1, section 235, subsection 5, paragraph (b).

[Judge Gonzalez read a prepared statement ([Exhibit E](#)).]

I would be happy to answer any questions you may have about A.B. 7 or any other questions you have about the Eighth Judicial District Court.

Chairman Horne:

Thank you, Judge Gonzalez. Are there any questions? [There were none.]

Ben Graham:

Robert Crowell, who also represents the district court judges, is here. This is a very helpful amendment for the entire state, because even the rural judges sometimes have travel days where they obviously cannot be at their desks. This would be a good movement. We are trying to update our legislation.

Chairman Horne:

Mr. Brooks.

Assemblyman Brooks:

How long has this law contained this particular language?

Judge Gonzalez:

I have only been practicing law in the state of Nevada since 1985. My research indicates that this provision was originally added in 1977 when the law was adopted. I have been unable to find any changes to it.

Assemblyman Brooks:

So, A.B. 7 has been in effect since 1977?

Judge Gonzalez:

Well, no. It is in the NRS Chapter 1.235.

Assemblyman Brooks:

Has this caused a significant amount of problems for judges to respond accordingly in the time frame outlined in the original legislation?

Judge Gonzalez:

Frankly, this is not a very significant issue. I asked for our court administration staff to identify for me how many of these motions to disqualify were filed between July 1, 2009, and December 31, 2010. There were 11 such motions filed in civil court, 2 in criminal court, and 13 in the family division. Anecdotally, I have had to respond to two in the last couple of years that required me to attach significant documentation as part of my response. It is very difficult for a judge who is already busy to be able to provide the well-reasoned information that is required of me sometimes in that two-day period. I tell you that anecdotally because there are so few of these that are actually filed. Most of the removals of judges from a case are handled through the recusal process, which is that of the judge voluntarily removing himself. Removal from the case and others are handled by the peremptory challenge process.

Chairman Horne:

If someone filed an affidavit today, Wednesday, you as a judge would have until Friday to file your response if you were going to do that, but you could be in trial today, and you are responding to their affidavit for a hearing they may have next week. You said you had one where you had to attach significant documents.

Judge Gonzales:

That is correct. I was, in fact, in a bench trial, and they were kind enough to allow me to break to come here to Carson City, but if I had been served with an affidavit last night, I would have had to make the choice of whether to have my staff stay to assist me to prepare the response, or whether I was going to take a break from my trial to complete the response within the time frame. That is the current reality of the two-day period.

Chairman Horne:

I have no further questions. Does anyone present want to testify in favor of A.B. 7? Is there anyone in opposition? Seeing none either here or in Las Vegas, I will close the hearing on A.B. 7. I see no reason to avoid processing this today. Are there any objections? I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
ASSEMBLY BILL 7.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Horne:

Mr. Brooks will present A.B. 7 on the floor. We will now open the hearing on Assembly Bill 43.

Assembly Bill 43: Extends the interval at which records of traffic citations must be audited by governmental agencies. (BDR 43-241)

Javier Trujillo, Intergovernmental Relations Specialist, City of Henderson, Nevada:

Mr. Chairman, A.B. 43 proposes to reduce the requirement of semiannual audits of traffic citations to simplify the annual audit process. By way of background, the passage of Senate Bill No. 438 of the 54th Session in 1967 required governmental agencies to audit every record of traffic citations at least twice per year. [Mr. Trujillo read from a prepared statement ([Exhibit F](#)).]

Chairman Horne:

Thank you, Mr. Trujillo. I know that Vice Chairman Ohrenschall has some questions.

Assemblyman Ohrenschall:

Mr. Trujillo, historically, in the City of Henderson, has there always been only one employee who conducts the audit? Have there been more in the past? Has there been a reduction in manpower recently?

Javier Trujillo:

To my knowledge, we have had one auditor on staff that would conduct these types of studies throughout the years. Miss Sheesley, if you know otherwise, please feel free to speak. In this economic environment, we only have one person that provides the audits for the City of Henderson. Miss Sheesley is now responsible to provide audits in the financial departments and municipal courts and to respond to any other specific requests that the City Council, Mayor, or City Manager may have.

Polly Sheesley, Internal Auditor, City of Henderson, Nevada:

At one point, Mr. Ohrenschall, I did have an accountant assisting me. However, considering the economic downturn, when that person retired, I gave up that position to help the General Fund.

Assemblyman Ohrenschall:

Once the audit is finalized, to whom do you turn over the information?

Polly Sheesley:

I submit a memo to the City Manager and the Henderson Police Department, and I send a copy to anyone who was involved in the audit.

Assemblyman Ohrenschall:

Is it available to the public as well?

Polly Sheesley:

It is a public record.

Chairman Horne:

Are there any other questions? Ms. Diaz.

Assemblywoman Diaz:

Mr. Trujillo, to clarify, the language that you are seeking to modify says that you must conduct an audit annually. Does that mean that for those larger cities

that still want to continue to conduct this audit twice a year, they may continue to do so?

Javier Trujillo:

That is correct. We are proposing to change the language to require one audit per year, meaning that we must do it at least once per year. That does not prohibit us from doing it two or three times per year. For the larger agencies such as the Las Vegas Metropolitan Police Department, I believe they want to do it at least twice, or maybe three times, because they have a staff that conducts those audits.

Chairman Horne:

Mr. McArthur.

Assemblyman McArthur:

The bill says every record of traffic citations must be audited. Is that going to hurt the way you audit? Because it says "every," does that prohibit you from doing the sample?

Polly Sheesley:

No, sir. I currently do select a sample because it says that every record, which does not mean every traffic citation, but it could mean a total file of traffic citations electronically, or just the sample of the population.

Chairman Horne:

Mr. Brooks.

Assemblyman Brooks:

Is there a significant savings that a local municipality would be able to sustain, based on the changing of this particular statute?

Javier Trujillo:

The savings would not be in dollars, so to speak, but it makes Ms. Sheesley available to conduct audits in other areas.

Chairman Horne:

I understand the City of Henderson has given Ms. Sheesley so much work that she cannot do the work that the state has asked her to do.

Javier Trujillo:

Given the economic environment, we are giving her that much more work to ensure that we are providing accountability to our taxpayers and to the state.

Chairman Horne:

Thank you, Mr. Trujillo. We have Mr. Chuck Callaway here in support.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

I represent the Las Vegas Metropolitan Police Department, and I want to go on the record that we support A.B. 43.

Chairman Horne:

Why does the Las Vegas Metropolitan Police Department support it?

Chuck Callaway:

Similar to the City of Henderson, we have one fulltime analyst that does our audit. We have some other staff members that sometimes assist, but they are not assigned directly to do the audit. The feedback I got from them is that it would be simpler and easier for us to do the audit only once a year, as opposed to twice a year.

Chairman Horne:

There is one thing I do not understand. It seems to me that this is not reducing the number of audits you have to do, only the time in which you have to do it. The amount of work has not changed, only how often it is done. If you let it go all year long until you do an audit, that seems like procrastination to me. I do not see how it is more efficient. I have never done an audit; so if somebody could clear that up for me. Say I have 1,000 documents that I have to go through over the course of an entire year. If I do 500 the first half of the year and I do a report, then I have less to do in the second half of the year, instead of waiting until the end when the audit is due. In that case, I would have got to go through the whole stack.

Polly Sheesley:

I select a sample of citations. Regardless of the number, the sample size stays pretty much the same once you get over a certain number. It does not change the sample size. It does not change the fact that Information Technology has to run a report. The same work has to be done whether it is 6,000 citations or 12,000 citations.

Chairman Horne:

Mr. Hammond.

Assemblyman Hammond:

What is the purpose of the audit? What do you do with the information?

Polly Sheesley:

If there are any findings, the Police Department responds to them. The next time I do the audit, I follow up to find out whether they have corrected the issues. Historically, I have found no instances of noncompliance with the *Nevada Revised Statutes* (NRS).

Assemblyman Hammond:

Is the information used to help public safety? If so, is that public safety being jeopardized by waiting another six months?

Polly Sheesley:

I have not found that to be the case. As I said, there have been no exceptions to NRS found; so the records are accounted for. They are signed out to individuals. They keep track of that, and they keep track of the citations. They are disposed of in court through a process involving the Police Department.

Chuck Callaway:

Assemblyman Hammond, one of the purposes of the audit is to account for traffic citations that may be damaged or lost or for some reason the officer voids the ticket. For instance, if you were stopped by an officer and you did not have your insurance available, and the officer went back to start writing the ticket, and then you found your proof of insurance, the officer would void the citation. Also, if an officer spills coffee on his ticket book or something to that effect where the tickets are damaged, the audit helps account for those tickets. An officer may be transferred to another duty, such as being a detective, where he is not writing tickets. He might hang on to his ticket book, and after a year or two, those citations in that book have still not been written. The audit accounts for where those citations are. I would not necessarily say it is a public safety element as far as protecting the public. It is more about tracking where those citations are.

Chairman Horne:

Mr. Brooks.

Assemblyman Brooks:

Is that all the audit does, is to take into account who is being pulled over? Does it address age, ethnicity, or anything of that nature as well?

Chuck Callaway:

That is not the primary purpose of the audit. However, in the past, our agency has used our database. We store the information for the investigation of Internal Affairs complaints. If allegations were made such as you mentioned, the database could be used to look at those issues, but it is not our primary

focus. The primary focus is to monitor those traffic citation books, the actual written citations, and now the new, electronically submitted citations.

Assemblywoman Diaz:

As we are headed more and more into technology, what do you see happening with the necessity to account for the written, receipted tickets that are given if everything is going to be done electronically? Where do you see that heading?

Chuck Callaway:

That is a very good question. Our traffic officers that are responsible primarily for traffic enforcement carry the electronic ticket writing apparatus. However, the primary function of our patrol officers is to handle calls for service, and in their spare time they write traffic citations. They are typically issued a hard copy ticket book. The cost of supplying all of our officers with the automated ticket writing apparatus would be burdensome on our agency, so I do not see us at any time in the near future going to total electronic citations. On average, a little over 400,000 traffic citations are written by our agency each year. Of those 400,000, about three-quarters of those are electronically submitted. The other quarter would be the handwritten tickets.

Chairman Horne:

Mr. Frierson.

Assemblyman Frierson:

I want to make sure I understand the point of the bill. This would allow you, since there have been no violations, at least in recent times, to reduce the number of times you have to audit. However, if you found something, this would give you the flexibility to do it more if you needed to. Essentially, it is allowing you to do it with flexibility, but more efficiently in the years when it is not needed.

Javier Trujillo:

That is correct. It would require us to do it at least once per year, and it would be enabling. Again, each police agency would be able to audit two or three times a year if they wish to do so.

Chairman Horne:

Mr. Daly.

Assemblyman Daly:

Based on the testimony and some of the questions that were asked here, I understand that the public policy side of needing the audits is relatively unaffected because of personal digital assistants, electronic tickets, and various

things to lessen mistakes. You realize the potential savings, not in dollars, but through the reallocation of the audit resource, which is also a factor in why you are bringing the bill. Is that correct?

Javier Trujillo:
That is correct.

Chairman Horne:
Mr. Hansen.

Assemblyman Hansen:
Ms. Sheesley said she has never found anything in the record in these audits. Why are you not asking to get rid of this altogether? Is it serving any purpose if nothing is being discovered?

Javier Trujillo:
We do believe that we need to maintain the audit process, as it ensures that our police officers are in compliance with the traffic citation books. We do monitor the voided tickets. We are aware of which ones are voided. Again, it is a process that ensures accountability within our agencies.

Assemblyman Hansen:
In the absence of these audits, do you think there would be an increase in violations of the NRS when Ms. Sheesley says she has not found any in all of the audits that she has done?

Javier Trujillo:
I do not believe so, Mr. Hansen.

Chairman Horne:
Thank you, Mr. Trujillo and Mr. Callaway. Is there anyone else in favor of A.B. 43 who wishes to testify? Is there anyone in Las Vegas? Is there anyone opposed to A.B. 43? Is there anyone in Las Vegas in opposition? Are there any neutral comments? [There were none.]

I am going to close the hearing on A.B. 43, but I am going to hold it for a while. There are a number of questions on this bill. I want to make sure everybody is comfortable with it.

We will open up for public comment. Is there anyone present wishing to comment? Is there anyone in Las Vegas wishing to comment? Are there any other housekeeping questions? [There were none.]

As a reminder, for those who regularly appear before our Committee, all exhibits are to be submitted electronically 24 hours ahead of time. For example, if you had exhibits for today, your exhibit should have been submitted electronically 24 hours prior to the start of this meeting. That means that they should have been in by 8:00 a.m. yesterday. Ideally, they should have been in by the end of business on the day before yesterday. Also, you should bring 20 paper copies to the Committee for the public. I know a letter went out to you with notice that they have to be sent electronically; so we are going to expect that to be done.

Tomorrow, we are going to introduce some committee bill draft requests for the consideration of our Committee.

If there is no other business for our Committee today, we are adjourned.

[The meeting was adjourned at 9:09 a.m.].

RESPECTFULLY SUBMITTED:

Jeffrey Eck
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: February 9, 2011

Time of Meeting: 8:02 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	John McCormick, Administrative Office of the Courts	Overview of the Nevada Court System PowerPoint Presentation
	D	John McCormick, Administrative Office of the Courts	The Annual Report of the Nevada Judiciary
A.B. 7	E	Elizabeth Gonzalez, Eighth Judicial District Court of Nevada	Prepared Statement
A.B. 43	F	Javier Trujillo, City of Henderson, Nevada	Prepared Statement