

Assembly

MINUTES OF MEETING - COMMITTEE ON JUDICIARY 54th Session Jan. 26, 1967

Meeting was called to order at 9:15 A.M.

Present: Loman, Swackhamer, Hilbrecht, Torvinen, Dungan, Wooster, Kean
White, Schouweiler (late)

Russ McDonald was present to help with AB 72 and 73, technical bills.

AB 72: Provides for processing claims of district judges' widows.

Mr. McDonald explained that this bill brings into line requirements of the clerk of the Supreme Court in processing certain claims, puts the administrative function on the clerk. He must process claims, keep books, etc. This is the forerunner of a judicial administrator.

Mr. Wooster: Have you done anything substantive to the bill?

Mr. McDonald: Subsection 4 having to do with the claims of widows of judges of the district courts under NRS 3.095 has been added.

Mr. Swackhamer: On what condition can the judges collect travel?

Mr. McDonald: When they are traveling on official business.

Mr. Swackhamer: If a judge lives in Yerington and sits in Carson City is he entitled to travel getting to and from work?

Mr. McDonald: No, no more than I am when I live in Reno and commute to Carson City every day. The only purpose of this bill is to get these widows of the district court judges included.

AB 73: Requires recording of amount of deficiency in real property foreclosure action to establish lien on debtor's property not involved in action.

Mr. McDonald said that the need for this bill had been brought to his attention by several attorneys on mortgage foreclosures. He said that after you go through all of your remedies the clerk enters the amount of the deficiency in official records. The transcript can then be entered in any county where the debtor had property. There is no procedure now to assert the lien in any other county.

Mr. Torvinen: Then this goes along with the statute passed last session to record judgment?

Mr. McDonald: Yes

Mr. Swackhamer asked how this action would affect an innocent third party. Mr. McDonald thought the rights of the innocent third party would be primary unless it was an "after the fact" deal. The third party has the obligation, however, to check the state of the title before he loans money or gets into the situation at all.

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AB 15: Clarifies minimum sum of property taxes that must be delinquent before district attorney can commence action.

Mr. Wooster said that this is a bill that Russ had asked the committee to consider. It is also the one about which Mr. Torvinen had said something about eliminating the requirement to file suit. The suggestion has been made that the words on line 3, "and direct" be deleted. Mr. Wooster said that taxes do not become delinquent until March, after the fourth quarter. At that time the D.A. notifies of delinquencies over \$3,000.

Mr. Hilbrecht suggested using the wording "are authorized and may be directed by the county commissioners," making it permissive.

Mr. McDonald said he thought that would be fine. It might take care of an over-zealous district attorney.

Mr. Kean moved to direct Mr. McDonald to make corrections on this bill.
Mr. Loman seconded

Mr. McDonald then pointed out that there are two ways the committee can go with this bill and asked them if they wanted a series of amendments on AB 15 or if they wanted a new bill. He suggested a new bill would be best.

Mr. Kean moved to withdraw his first motion and made a new motion to kill the bill, AB 15 as it is at present.

Mr. Wooster suggested the original motion could be changed to one asking Mr. McDonald to draft a new bill.

The final understanding of the action on this bill was that the material in AB 15 would be drafted and introduced as a new bill.

AB 80: Deletes certain filing requirements of nontestamentary trustees under Uniform Trustees' Accounting Act.

Mr. Close was present to speak for the bill. He explained that it takes out of the law the requirement that the trustee must file an accounting every year of the whole transaction, profits, expenses, the whole works. At present this must be done, and it doesn't work very well. He explained that a trust is a contract between certain parties and in other contracts there is no requirement for filing. He then read to the committee the law as it is at present in NRS 165.140. He said a trust could go on for years, conceivably one hundred years, and this yearly accounting is very burdensome and is no good to anyone. Many times, too, a trust is amended from the way it was filed originally.

Miss Dungan asked what there was in the law to keep a trustee honest and was told by Mr. Close that there is the threat of prison for embezzlement.

Mr. Close said that wills are not recorded and he could see no reason for all this accounting of trusts.

Mr. Kean asked if we need to add more requirements to protect other interested parties and insure rightful doings. Mr. Close said there are no other interested

parties. The only ones interested are the two parties of contract. He added that with this law there is no way to keep the details of these financial transactions secret or private and some people would like to keep these things to themselves. He said the act does no good and is a harassment.

Mr. Hilbrecht said that there is now no effective method for giving notice of annual accounting to the beneficiary.

Mr. Wooster said there will be no real recourse for a lot of people who will try to set up their own trusts now that this book is out, "How to Avoid Probate."

Mr. Close said it might be well to put in something requiring notice to the beneficiary at least annually.

Mr. Swackhamer inquired what about cases where the trustee is not honest or the beneficiary is incompetent.

Mr. Close said that minors and incompetents must have a guardian.

Mr. Kean asked if the guardian and the administrator could be the same person and was told that they could be.

Miss Dungan said if the guardian and trustee are one and the same person should we have a third party involved. She thought the committee should think about that.

Mr. Wooster said there would not be time to resolve this issue at this meeting but the committee had food for thought and could pursue the matter at a later time.

Mr. Hilbrecht said he thought the law as is is doing no good to anyone.

Mr. Kean moved AB 72 Do Pass
Mr. Hilbrecht seconded
Motion passed unanimously

Mr. Loman moved AB 73 Do Pass
Mr. Torvinen seconded
Motion passed unanimously

Time for the next meeting was set for Tuesday , January 31, at 9:00 A.M.

Meeting adjourned at 10:00 A.M.