

MINUTES

MARCH 29, 1973

The meeting was called to order by Mr. Keith Hayes, Chairman.

MEMBERS PRESENT: MESSRS: HAYES, BARENGO, GLOVER, TORVINEN, HUFF, FRY,
LOWMAN, HICKEY, AND MISS FOOTE.

MEMBERS ABSENT: NONE

GUESTS PRESENT: Mr. H. Etchemendy, City Manager of Carson City;
Mr. David Hagen, Reno Attorney.

Mr. Etchemendy testified in opposition to A.B. 574 saying that there is no necessity for this bill. During the 69 session of the legislature in anticipation of the 1970 census all of the bills which had anything to do with population were increased to higher numbers. At this time NRS 62.180 required that counties having a population over 20,000 build separate juvenile detention facilities; the legislature increased this figure to 100,000. This present bill would seem to be an attempt to put Carson City in a class by itself. The 100,000 figure does not make it mandatory to wait until such time as the population reaches this number, the Board of Supervisors has all the power necessary to build a juvenile detention facility at any time the voters decide they want one. In answer to Mr. Hayes's question about what is being done with juveniles now, Mr. Etchemendy said that there is a juvenile section in the jail, built specifically for that purpose. The board is presently in contact with Douglas Co. with regard to the possibility of a joint construction effort and this would be the preference of the Carson City Supervisors. For these reasons Mr. Etchemendy said, "this bill should be killed". Mr. Glover commented that there is a great deal of concern that the present facilities are not adequate.

Mr. David Hagen told the Committee that he had been commissioned by the Washoe County Bar Association as an unpaid legislative delegate for the purpose of seeking two additional district court judges for Washoe County. He explained that Washoe County uses an alternate setting system and compared it to a previous system which demonstrated the increase in case load and the effectiveness with which they have been handled. He also stated that the 1972 crime rate in Reno is up over 17% from the 1971 figures. He explained the absenteeism factor and said that the work load and strain on these men seriously impaires the physical and emotional health situation. We have got to give them some relief. In regard to the economic consideration Mr. Hagen said that "justice is the responsibility of the community and is not nor was it ever intended to pay for itself, we have an obligation to provide it to the community, and I do not believe it is appropriate to resist providing additional judges if there is a need for them on an economy basis alone." He went on to say that if the legislation

PAGE TWO

MARCH 29, 1973

to eliminate the third judicial district passes it would in effect give Reno two for the price of one if this bill meets with approval. He urged the Committee to support this bill in it's present form.

Mr. Hagen also testified on A.B. 581 saying that it has been past policy to take a man who has practiced law for twenty plus years, giving him a political appointment to the court when he is in his fifties, he works like the devil for ten years and then he burns out. He has to stay on for twenty years if he is going to get retirement. We have got to give the existing judges who are tired an opportunity to get off the bench. Some states have a provision that the retirement decreases the older they get. "I wish there was some way we could insure appointment of younger men, someone with five or ten years experience who still has good health and vigor to maintain and give twenty to twenty-five good years to the bench." Governor O'Callahan has set a precedent of some kind by appointing younger than the average to the bench, but I think we need an inducement to get the older men off the bench and the pension change in A.B. 581 would accomplish that purpose.

Mr. Hayes said that in his opinion this locks in people to the appointive process and reverts the concept of election of judges. In a lot of ways this perpetuates the defacto situation that we really don't have an elected judiciary, we have an appointed judiciary. Mr. Hagen said that something like 8 and 12 years so that the one year hiatus between the appointment and the following year election would be taken up and give the man the opportunity to retire with the benefits included at the conclusion of an elected term. Mr. Hagen said that he had given a comparative analysis of all of the fifty states with respect to terms, salaries, etc to Senator Lamb and would get a copy for the Committee if they would be interested in reviewing it. Mr. Hayes asked that this be done.

Mr. Huff told the Committee that A.B. 590 came from a request by the Las Vegas police department and the idea behind it is to prevent retaining large amounts of drugs involved in cases and eliminate tempting law enforcement. A sampling is all that is needed for conviction. This would also apply to people's possessions, i.e. televisions, jewelry, etc.

Mr. Torvinen requested that the Committee consider A.B. 682 because he had to leave to attend another meeting. He said that this bill only applies to criminal cases. Several years a law was passed that stated if an appellant doesn't set an appeal before 60 days it is automatically dismissed, and the courts just never get around to telling you when the papers are filed. He told the Committee that he had received a request from the Clerk in Reno to amend the bill to change the word docketed to filed, because they don't keep a docket anymore. Mr. Fry felt that the bill should be further amended to say the appellant or his attorney.

Mr. Torvinen moved to amend and recommend DO PASS, Mr. Fry seconded.
MOTION CARRIED. AMEND AND DO PASS A.B. 682.

PAGE three

Mr. Glover requested that We hold A.B. 574 for further testimony, and this was granted.

A.B. No. 580 SUMMARY-Increases number of district judges in Washoe County

Mr. Barengo moved to recommend DO PASS, Mr. Fry seconded.

There was limited discussion as to the better bargaining basis when this bill goes to ways and means, but Mr. Torvinen point out one of the best arguments is that if we abolish the third judicial district it won't require any more state money.

MOTION CARRIED DO PASS A.B. 580

A.B. No. 581 is held for consideration of Mr. Hagen's analysis.

A.B. No. 607 SUMMARY-Provides for disposal of unclaimed stolen or embezzled property.

Mr. Huff moved to recommend DO PASS, Mr. Barengo seconded.

MOTION CARRIED DO PASS A.B. 607

A.B. No. 608 SUMMARY-Permits grand juries to receive affidavits of certain expert witnesses.

Mr. Fry moved INDEFINITE POSTPONMENT OF A.B. 608, Mr. Lowman seconded
Mr. Huff voted against the motion.
Mr. Hayes absent for the vote.

MOTION CARRIED INDEFINITE POSTPONMENT OF A.B. 608

A.B. No. 611 SUMMARY-Requires that found property be turned over to a public agency and provides for the return or disposal of found property.

Mr. Fry objected to the language of the bill. Mr. Huff said the present procedure in the situation is shaky, and the intent of this bill is to provide direction.

Mr. Hickey moved INDEFINITE POSTPONMENT, Miss Foote seconded.
Mr. Huff voted against the motion.'

MOTION CARRIED INDEFINITE POSTPONMENT A.B. 611

A.B. No. 681 SUMMARY-Specifies procedures for removal of justices of the peace.

Mr. Barengo wondered if a constitutional amendment is required, and Mr. Hickey asked if there isn't a code of ethics. It seems that in Section 7, Article 9 of the Nevada Constitution justices of the peace are excluded
Mr. Lowman said that since this is not included in the constitution he

PAGE FOUR

MARCH 29, 1973

would move to recommend DO PASS, Mr. Glover seconded.

Mr. Huff said he felt there must have been some tremendous lobbying to exclude JP's when everyone from the Governor on down is covered under impeachment specifications. He said that the LCB had recommended this bill would cover removing the JP from office and that an amendment to the constitution is not necessary.

Mr. Fry said he would like to hear from the LCB on this bill.

The Committee reviewed AJR 15 and AJR 21. Mr. Barengo told the Committee that there is a suggested amendment to include the words "or such larger amount". Mr. Hayes remarked that AJR 15 seems to be the better of the two bills and he would entertain a motion.

Mr. Lowman moved to AMEND AND DO PASS, Mr. Fry seconded.

MOTION CARRIED UNANIMOUSLY AMEND AND DO PASS AJR 15.

Mr. Gary Owens from the Legislative Counsel Bureau appeared by request to explain A.B. 611 for the benefit of the Committee. He said that when this bill had been requested Mr. Huff had asked that the words "except justices of the peace" be deleted from the Constitution. He said that in reviewing the bill Mr. Dakin was of the opinion that excluding those words would not be a prohibition of removal, but simply a statement that impeachment would not be the method. He went back into the old volumes on the framing of the constitution and after detailed study said that he felt this section was not intended to be a bar, it was only intended to mean that impeachment is not the way to remove jp"s from office. This bill would be a good vehicle to accomplish that otherwise you will have a public official who will not be subject to any kind of recourse of the people.

The Chair moved to the previous question. There is an existing motion and second for DO PASS.

MOTION CARRIED UNANIMOUSLY. DO PASS A.B. 611

In light of previous testimony Mr. Barengo moved to recommend DO PASS on A.B. 808, Limiting the right to petition for writ of habeas corpus in certain cases while criminal action is pending. Mr. Lowman seconded.

MOTION CARRIED UNANIMOUSLY DO PASS A.B. 808

The meeting was adjourned. The Committee will meet again at 5:30 PM, to take care of unfinished business etc.

ASSEMBLY

AGENDA FOR COMMITTEE ON JUDICIARY

281

Date MARCH 29, 1973 Time 2:00 PM Room 240

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel requested*</u>
A.B. 574	SUMMARY-Increases number of counties required to have detention homes for children.	
A.B. 580	SUMMARY-Increases number of district judges in Washoe County.	
A.B. 581	SUMMARY-Establishes pension levels for district judges after 10 and 15 years' service.	
A.B. 590	SUMMARY-Provides method of disposing of certain physical evidence prior to trial.	
A.B. 607	SUMMARY-Provides for disposal of unclaimed stolen or embezzled property.	
A.B. 608	SUMMARY-Permits grand juries to receive affidavits of certain expert witnesses.	
A.B. 611	SUMMARY-Requires that found property be turned over to a public agency and provides for the return or disposal of found property.	
A.B. 681	SUMMARY-Specifies procedures for removal of justices of the peace.	
A.B. 682	SUMMARY-Provides notice to appellant when his appeal is docketed with clerk of district court.	
AJR. 21	SUMMARY-Proposes to amend section 8 OF ARTICLE 6 of Nevada constitution to permit legislature to extend jurisdiction of justice courts.	

*Please do not ask for counsel unless necessary.