

JUDICIARY COMMITTEE
57th NEVADA ASSEMBLY SESSION

324

MINUTES

APRIL 23, 1973

A special meeting was called to order by Mr. Keith Hayes, Chairman, at 3:00 PM. This meeting was held to review for concurrence some Senate amendments.

A.B. No. 234 the comment was made that the senate amendment would make this a do nothing bill. Also heard was the remark that this is a "save face move by the Governor".

Mr. Torvinen moved DO CONCUR, Miss Foote seconded.

VOTING AGAINST THE MOTION: HICKEY, HUFF, GLOVER, LOWMAN AND FRY who said, "not only no, but hell no!"

Mr. Lowman moved DO NOT CONCUR, Mr. Huff seconded.

VOTING AGAINST THE MOTION: FOOTE AND BARENGO

MOTION CARRIED DO NOT CONCUR.

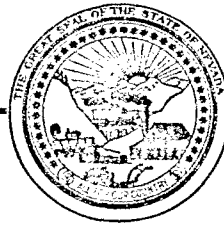
A.B. No. 459 - Senator Bryan appeared before the Committee and told members he is very disturbed with some of the approaches taken in this bill. He said that he is not opposed to an additional Justice of the Peace for Reno since testimony verified the necessity of this. He is however concerned with actions of the Clark County Commissioners, who took a position in opposition to adding a JP prior to the amendment, and who have since offered a full time position as "defacto" JP to a presently part time JP residing in a nearby community. Senator Bryan said this is patently illegal. The only basis for a proposal of this nature is if the current JP is absent from the bench. He presented an opinion from the LCB to concur with this. He angrily said this is playing with criminal justice. The amendments he suggested would provide that the County Commissioners would have the opportunity to appoint another JP between now and 1-1-75. The people could elect a man in the 74 General Election. Senator Bryan said the procedure would be not to concur and set up conference.

Mr. Fry moved DO NOT CONCUR, Mr. Glover seconded.

MOTION CARRIED DO NOT CONCUR

On the amendments to A.B. 32, Mr. Lowman moved DO CONCUR, Mr. Hickey seconded.

MOTION CARRIED DO CONCUR WITH SENATE AMENDMENTS TO A.B. 32



ARTHUR J. PALMER, *Director*

CLINTON E. WOOSTER, *Legislative Counsel*
EARL T. OLIVER, C.P.A., *Fiscal Analyst*
ARTHUR J. PALMER, *Research Director*

M E M O R A N D U M

TO: Senator Richard Bryan
DATE: April 23, 1973
RE: Justices of the Peace

Our office has been presented with the following question:

Can a board of county commissioners contract with a justice of the peace of one township to serve as justice of the peace in another township within the same county, except as explicitly provided by the provisions of the Nevada Revised Statutes?

NRS 4.020 provides for the number of justice courts and justices of the peace in each township in this state.

NRS 4.040 provides for the compensation of justices of the peace in all cases, including cases where the board of county commissioners finds it necessary to "appoint" a justice of the peace. However, the only authority in NRS permitting a board of county commissioners to appoint a justice of the peace are NRS 4.150 (pertaining to vacancies), 4.340 (pertaining to temporary vacancies), and 66.020 (pertaining to disqualifications from hearing particular cases).

NRS 4.180 and 4.190 provide certain powers for justices of the peace "in their respective townships."

It is the opinion of this office that there are no provisions in NRS explicitly or implicitly permitting a justice of the peace to exercise the duties of a justice of the peace in another township under a contract with a board of county commissioners, except as indicated in the sections listed above. Any decision of a justice of the peace, operating under such a contract, would be subject to serious challenge for lack of jurisdiction.

Senator Richard Bryan
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An argument might be made that NRS 4.340 is broad enough to permit a justice of the peace to be invited to another township if the justice or justices in the latter township are overburdened with work and unable to process all the actions on their respective dockets. NRS 4.340 allows a justice of the peace or board of county commissioners to invite another justice of the peace to attend to his official duties if he is prevented from fulfilling them because of absence, ill health or other cause. It would be our view that such other cause refers to some other temporary disability and is not sufficient to enable a board of county commissioners to make a long-term contractual arrangement with a justice of the peace in another township. In any event, the provisions for filling a temporary vacancy in NRS 4.340 may not exceed 30 days at any one time. Thus, regardless of the interpretation placed on the phrase "or other cause", the arrangement to allow a justice of the peace from another township to fill a vacancy pursuant to NRS 4.340 could not exceed 30 days.

Yours truly,

CLINTON E. WOOSTER
Legislative Counsel

By 
James N. Kosinski
Deputy Legislative Counsel

JNK:ca

Amendments to ~~ASSEMBLY~~ / Senate

Bill / ~~Joint Resolution~~ No. 545 (BDR 16-2028)

Proposed by Mr. Lowman

APR 17 1973

Amendment N^o 5153



Amend section 1, page 1, by deleting line 1 and inserting:

"WHEREAS, It is hereby declared as a matter of legislative determination that the availability of capital punishment serves as a deterrent to the commission of certain offenses against the state and as a deterrent to the aggravation of certain crimes against the state; and

WHEREAS, The imposition of the death penalty by a jury may be arbitrarily applied, to the end that such penalty may not be applied equally to all classes of persons; and

WHEREAS, The decision by a jury as to whether or not a person is punished by life imprisonment or by death may be so arbitrarily applied that the efficacy of the death penalty as a deterrent to crime is questionable; and

WHEREAS, The purpose of this act is to alleviate the possibility that the death penalty may be arbitrarily or capriciously imposed by a jury, thus diluting the deterrent effect of such penalty, and to ensure the equal application of the death penalty under the law; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY,

DO ENACT AS FOLLOWS:

Section 1. NRS 174.065 is hereby amended to read as follows:".

APR 25 '73

Bill / ~~JOHN R. BRYAN~~ No. 459 (BDR 1-1179)

Proposed by Senator Bryan

Amendment No 5150

"Resolves conflict with S. B. 168."

Amend section 1, page 1, by deleting lines 1 through 23 and page 2, by deleting lines 1 through 8 and inserting:

"Section 1. NRS 4.020 is hereby amended to read as follows:

4.020 1. [There shall be one justice's court in each of the townships of the state having a population of less than 100,000, as determined by the last preceding national census of the Bureau of the Census of the United States

Department of Commerce, for which one justice of the peace shall be elected by the qualified electors of the township at the general state election in November 1974, and every 4 years thereafter.

2. There shall be one justice's court in each of the townships of the state having a population of 100,000 or more, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, for which two justices of the peace shall be elected by the qualified electors of the township at the general state election to be held in November 1974, and at each state general election held every 4 years thereafter..

3.] There shall be one justice's court in each of the townships of the state, for which there shall be elected by the qualified electors of the township at a general state election in November 1974, and every 4 years thereafter, the following number of justices of the peace according to the population of the township as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce:

(a) If the population is less than 50,000, one justice of the peace.

(b) If the population is 50,000 or more but less than 100,000, two justices of the peace.

(c) If the population is 100,000 or more, three justices of the peace.

2. The term of office of justices of the peace shall be 4 years beginning on the 1st Monday in January next succeeding their election.

Continuation Page 2

ASSEMBLY BILL NO. 459
ASSEMBLY JOINT RESOLUTION NO. _____

ASSEMBLY AMENDMENTS

SENATE BILL NO. _____
SENATE JOINT RESOLUTION NO. _____

5154 SENATE AMENDMENTS

[4.] 3. Justices of the peace shall receive certificates of election from the boards of county commissioners of their respective counties.

[5.] 4. The clerk of the board of county commissioners shall, within 10 days after the election or appointment and qualification of any justice of the peace, certify under seal to the secretary of state the election or appointment and qualification of the justice of the peace. The certificate shall be filed in the office of the secretary of state as evidence of the official character of such officer."

Amend the bill as a whole by adding new sections designated sec. 2 and sec. 3, following section 1, to read as follows:

"Sec. 2. The board of county commissioners of each county in which there is a township of such size that its justice's court is entitled to an additional justice of the peace under the provisions of this act may appoint a justice of the peace to fill such position until the 1st Monday of January 1975.

Sec. 3. Section 2 of this act shall become effective at 12:01 a.m. on July 1, 1973. Section 1 of this act shall become effective at 12:01 a.m. on July 1, 1973 for the purposes of nomination and election of justices of the peace and for all other purposes on the 1st Monday of January 1975."

Amend the title of the bill to read as follows:

"AN ACT relating to justices of the peace; increasing the number allotted to certain townships; and providing other matters properly relating thereto."