

Assembly

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GOVERNMENT AFFAIRS COMMITTEE

MINUTES OF THE MEETING

May 13, 1975

MEMBERS PRESENT:

CHAIRMAN DINI
VICE-CHAIRMAN MURPHY
ASSEMBLYMAN CRADDOCK
ASSEMBLYMAN MAY
ASSEMBLYMAN MOODY
ASSEMBLYMAN SCHOFIELD
ASSEMBLYMAN FORD
ASSEMBLYMAN YOUNG

MEMBERS ABSENT:

ASSEMBLYMAN HARMON

ALSO PRESENT:

Chief Justice E.M. Gunderson, Supreme Court
Judge Mendoza
Bruce Arkell
Olin C. DeGraff, Supreme Court
Richard Bunker, County of Clark

(The following bills were discussed: S.J.R. 18, A.B. 782).

Mr. Dini called the meeting to order at 8:00 A.M.

The first bill on the agenda to be discussed was S.J.R. 18, which proposes amendment of Nevada constitution to specify authority for establishing and criteria for testing court budgets. Chief Justice Gunderson of the Supreme Court testified. He stated that he recognizes that this proposal is submitted in good faith. He stated that he considers this a questionable and unwarranted proposal. He further stated that it is more likely to generate controversy rather than solve anything. He stated that if this bill passed, the legislative body in this state and the courts would have sound cause to regret. He stated that this bill purports to confront itself with the relationship of the legislative body to the various courts with which they must deal and particularly it purports to direct itself to the relationship of this legislative body with the Supreme Court and the District courts.

He further stated that the legislature and the Supreme Court have not come to an ultimate confrontation over the budget matter since 1902 and then it was not directly. To the best of his recollection in all other cases, the courts and the legislature have managed through the ordinary course to adjust their positions. That is a credit to both branches of government. In recent years, the legislature has deferred to allow some of the budget but the Supreme Court has deferred. He stated that he was not sure if this proposal would in any way benefit the relationships of the two branches of government. It may well be hurtful to the relationships of the various branches of government. There have been some instances that have affronted some county commissioners and which involve a very limited number of district court judges. Only one has made its way to the Supreme Court. It was a trifling matter that arose in Lovelock between Judge Young and the County Commissioners. It dealt with a \$50.00 question. There was a dispute in their court and they appointed a master to make findings of fact as to who was right and who was wrong.

In that case, the council for the commissioners stipulated that the judges' proposed salary scale was reasonable and his other requests were reasonable and stipulated that there was money available to make the expenditure. On the basis of those facts, the Nevada Supreme Court held that the probation officer should be paid as the judge contemplated and that the other expenditures should be made.

In any event, Justice Gunderson stated that he understands that there have been some instances in Clark County where a confrontation has arisen. One District Judge has been involved in the major portion of it because he has been at the storm center of possible controversy in the Juvenile end of it. He has been told by individuals in the District Attorney's Office that this is an action for concern among County Commissioners. No case has been brought to his court.

From the viewpoint of the Supreme Court, it is startling that when they have not had an opportunity to rule on a propriety of a district judge's action that we should be faced with a constitutional amendment directed at the entire judiciary. He stated that he does understand that it is part of the process of our government that the legislative branch and the judicial branch will have to meet and will not always agree and will have certain confrontations in working out their problems. Our government does not work with total smoothness, but we solve our problems by negotiations. He stated that the commissioners are unhappy about it.

He referred to the change by the Senate Government Affairs Committee. This committee changed the word "unfair" to "unreasonable" and at least they have come back to something that is more closely in line to what is generally conceived. He referred to paragraph 1 of the bill. If there is any thought that the legislature by this amendment may be able to remove areas of abrasion between two departments of government by clarifying that the legislative

branch can provide for support services, he is not sure that we would be correcting anything. This would not enhance good relationships. 1504

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He stated that paragraph 2 of the bill proposes two things. This would be an endeavor to place the court which is a separate branch of government on the same level with any legislatively created department. He stated that it is a questionable premise. It involves state and federal constitutions.

He stated that they are under a mandate to provide justice and speedy trials. He stated that the problem with this proposal was that it may be an incitement to problems that do not exist.

Senator Gibson testified next. He stated that their committee introduced this bill at the request of the county commissioners association. The problem that they are facing is primarily developing in the local entities with tighter budgets.

Mr. Broadbent testified. He stated that they need this bill. He informed the committee that there was a decision released out of North Las Vegas that said that the city council did not have any control over justice department budgets. They have real trouble taking this to court. They have 15 cases that are in the process of going to Clark County. He stated that this bill might help to solve the problem. The judges have to be reasonable in their demands.

Bob Warren testified next. He stated that this places the courts in a position of a conflict of interest. This has become the major burden upon city and county governments. It creates a burden on other entities of government. The League of Cities supports this legislation.

Judge Mendoza testified next. This particular piece of legislation probably has the greatest impact on the on the constitutional process of the State of Nevada. When he testified before the Senate Judiciary Committee they were more involved with a companion piece of legislation which was S.B. 502. This is a spin-off of that legislation. It is a direct attack on the government of the State of Nevada. Control of bailiffs, court reporters, secretary and law clerks are a judicial function. They are not legislative or executive functions. If this passes we will destroy that basic concept. He stated that there must be basic trust between branches. We are servants of the people. He stated that the dog control budget was higher than the juvenile budget. Less than 1% of the monies appropriated go to support the judicial branch. 99% goes to the executive and legislative branches. If this were given to the state, there will be a better chance for better funding. This bill would destroy 111 years of history of the state. He stated that they would like to control their own department.

Mr. May asked if you can get an injunction against a constitutional amendment. Judge Mendoza replied yes it may be declared unconstitutional either by the State Supreme Court or the U.S. Supreme

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Court.

Mrs. Ford asked if he thought that the constitution needs any clarification at all in this area.

Judge Mendoza stated that he did not really think so. This contemplates the judiciary having to determine what unreasonable is.

Mrs. Ford asked how he proposed to handle the problem of an open checkbook kind of thing.

Judge Mendoza stated that what we need is some kind of vehicle where the three branches can get together. For instance, a judicial conference or a judicial council.

Mrs. Ford stated that that would be excellent.

Mrs. Ford stated that she thought that the reference to provision of services should be taken out. She stated that what would be left would be a direct appropriation by the State. She asked Judge Mendoza if he would have any objection to something like that.

Judge Mendoza replied that it would be surplusage.

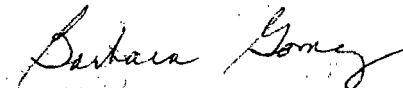
Mr. Dini stated that the committee would reconvene at 4:00 P.M. to have further testimony on S.J.R. 18.

The next bill to be discussed was A.B. 782, which makes changes in procedure for transferring certain property to Nevada Indian tribes. Linda Brown testified. She stated that they would like to delete Paragraph 5 of this bill.

Mr. Young moved for a do pass, which was seconded by Mr. Craddock. The motion carried unanimously. Mr. Dini, Mr. May, Mr. Harmon and Mr. Schofield were not present at the time of the vote.

There being no further business to come before the meeting, the meeting adjourned.

Respectfully submitted,



Barbara Gomez,
Committee Secretary

ASSEMBLY

AGENDA FOR COMMITTEE ON GOVERNMENT AFFAIRS
Tuesday,
Date May 13, 1975 Time 8:00 A.M. Room 214

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Bills or Resolutions
to be considered

Subject

Counsel
requested*

Bills or Resolutions to be considered	Subject	Counsel requested*
S.J.R. 18	Proposes amendment of Nevada constitution to specify authority for establishing and criteria for testing court budgets.	
S.B. 468	Vests certain counties with areawide waste management planning duties and powers.	
S.B. 491	Revises unincorporated town government law.	
S.B. 498	Revises law on disincorporation of cities.	
S.B. 505	Removes unincorporated towns from local government finance laws.	
A.B. 782	Makes changes in procedure for transferring certain property to Nevada Indian tribes.	

